[Several "noes".]

CHAIRPERSON FREEMAN: Abstentions?

The Eichhorn amendment passes.

Is there additional amendments or discussion on subsection (c)?

Delegate Robinson?

DELEGATE ROBINSON: Thank you, Madam Chair. I move to ask a question and hopefuly it will end in an amendment.

My concern, ma'am, is that we have been speaking about the disabled and the senior citizen population, and I am very concerned about the area of accessibility to public buildings. We say that we want the disabled to be able to receive the services necessary for full community participation. However, it is devastating to a person who is disabled to not be able to go into a public courthouse or a public office building because of the barriers and inaccessible egresses and exits from these buildings. /sic/

And my question is: why has the committee not insured or placed in this constitution such a provision?

DELEGATE MARCUS: May we answer that?

CHAIRPERSON FREEMAN: Yes.

DELEGATE MARCUS: Mr. Robinson, that was in fact intended by the language "to receive the services necessary for full community participation". This body saw fit to vote that language out and to simply say "as provided by law".

Therefore, leaving that choice up to the Legislatur

CHAIRPERSON FREEMAN: I will point out that we are on subsection (c).

Delegate Bruning?

DELEGATE BRUNING: Yes, I want to move an amendment. Unless the committee can convince me otherwise.

On line 14, to change the word "persons" to "adults". And I'd like to speak on that for a second.

CHAIRPERSON FREEMAN: Is there a second on that?

DELEGATE CORN: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that on line 14 we substitute the word "adults" for the word "persons".

Is there discussion on that? Would the committee -- would delegate Bruning like to speak to that, or would you like --

DELEGATE BRUNING: I'd like to speak to my concerns on that, in hopes that the committee may view my concerns.

I understand the plain reading of this, that right now it says that "all persons shall also have the right to be free from all forms of discrimination on account of age." I am wondering if that doesn't put, for instance, the child in drinking laws in danger, child labor laws, any one of a number of things?

I have tried to discuss this with the committee before. I am not yet convinced that the concerns, unfortunately, which I'm sure the committee has no intention of creating, has, by its language, done it. And I am quite amenable to withdrawing this or accepting alternative language.

But it seems a plain reading of anybody of this would suggest serious illogical problems. That nobody, in terms of age, can be discriminated against. That goes to jobs, that goes to education, it goes to everything. I don't know, it just does those things.

CHAIRPERSON FREEMAN: Delegate Mason?

DELEGATE C. MASON: The committee considered this language. Some of the things you present, such as somebody presented access to alcoholic beverages and things like that, that might raise some question.

The case that recently came up, one of the reasons for dealing with this was complaints of landlords discriminating in rentals because families had small children, who, of course, were young. So there was discrimination on account of age.

The Council eventually adopted some rather --

CHAIRPERSON FREEMAN: Excuse me, Delegate Mason. I want everybody to pay attention to what you're saying.

Could I have quiet on the floor, please?

Delegate Mason.

DELEGATE C. MASON: The Bruning amendment would not provide any solution to that particular type problem.

CHAIRPERSON FREEMAN: Thank you.

Delegate Jones?

DELEGATE JONES: I rise to speak because of that last sentence.

I think that children would start taking parents to court, as they are now, no matter what their constitutional rights are. And my child, who is under age and under my control, who thinks that he has the right to be free to roam the street after dark would have to come past me, and I would be falsely reckoned with, and then he could say, "You have violated my constitutional right."

I really don't like the sentence. And I don't like the sentence for anybody. I think that when I get to the point where somebody has to care for me in a manner that stops me from hurting myself, because I'm elderly or whatever -- however, I hope I never get to that point -- but if somebody is going to have to take care of me and is going to have to say certain things to me --

CHAIRPERSON FREEMAN: Excuse me, Delegate Jones, there's a lot of noise in the room.

DELEGATE JONES: And I'd like that section to be taken out of here.

I would like to make a motion, if I can.

CHAIRPERSON FREEMAN: The pending motion we now have is an amendment to line 14. What's your motion?

DELEGATE JONES: I want to strike the sentence, but I reserve the right to make the motion when it's appropriate.

CHAIRPERSON FREEMAN: You can make it now.

DELEGATE JONES: Okay, I'd like to move that we strike that "all persons shall have the right to be free from all forms of discrimination on account of age".

CHAIRPERSON FREEMAN: Is there a second?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we strike the second sentence in subsection (c).

Discussion?

Would you like to speak to that now, Delegate Jones -- or you have actually spoken to it.

Would the committee like to respond? Would the committee like to respond to this motion? Delegate Jackson? Or Delegate Mason.

DELEGATE C. MASON: I believe that the problem, which Delegate Jones has in mind, would be fully taken care of by the Bruning amendment, which would still leave this in with respect -- say, the company that won't hire anybody over 30. That should be covered in one way or another.

I think, if the body is concerned about Delegate Jones' concern, the way to deal with it is to adopt the Bruning amendment.

CHAIRPERSON FREEMAN: Is there further discussion on the Jones motion?

Delegate Corn?

DELEGATE CORN: I would move a substitute to the Jones motion.

CHAIRPERSON FREEMAN: That would be out of order.

DELEGATE CORN: Could I amend it, then?

CHAIRPERSON FREEMAN: No. This is an amendment to an amendment.

DELEGATE CORN: May I ask the Chair this, to instruct me? While I would agree that that sentence should be struck, I would like to put in, please, another sentence. At what point can I do that?

CHAIRPERSON FREEMAN: At the point at which, if indeed, this sentence is struck.

DELEGATE CORN: I can move it then?

CHAIRPERSON FREEMAN: If that happens, yes.

Is there further discussion on the Jones amendment?

Delegate Jackson.

DELEGATE JACKSON: I believe these questions were answered by Mr. Mason, that we not vote for this.

It has been shown that Mr. Bruning's amendment would be a bit narrower than what we had anticipated. But we understand the concerns. The committee would be in favor of that.

But I think Mr. Mason made a very strong point. For example, if someone at a job, and there are no age requirements there, and someone goes, and I am told then that I can't have that job because I am 31, and I should be 22, you know, and I got a little gut, and I shouldn't, therefore I could be discriminated against because of this.

What we are saying is that in all these forms, age discrimination should not be allowed.

This, Madam Chair, goes along with the four provisions that we admit before, was to cover all groups. And we might add that we ran this language to the Gray Panthers and many, many youth organizations, and all those felt that we had covered the problem adequately.

CHAIRPERSON FREEMAN: Is there further discussion on the Jones amendment?

Delegate Thomas?

DELEGATE THOMAS: Call the previous question.

[Several Delegates seconded.]

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on the Jones amendment.

All those in favor of closing debate, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Debate is closed.

The Jones amendment would delete the second sentence in subsection (c). All those in favor of the Jones amendment, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Chorus of "noes".]

CHAIRPERSON FREEMAN: I'll call for a division. All those in favor please raise your hands, and keep them up.

[Showing of hands.]

SECRETARY COOPER: Fourteen.

CHAIRPERSON FREEMAN: Thank you. All those opposed, please raise your hands.

[Showing of hands.]

SECRETARY COOPER: Twelve.

CHAIRPERSON FREEMAN: Abstentions?

[Showing of hands.]

SECRETARY COOPER: Five.

CHAIRPERSON FREEMAN: The Jones amendment carries, which means the last sentence in subsection (c) is deleted.

DELEGATE ROBINSON: Move the previous question.

CHAIRPERSON FREEMAN: No. I promised Delegate Corn that she would be called on if that was deleted.

Delegate Corn.

DELEGATE CORN: In liue of the sentence that has just been struck, I would add the following sentence in its place: "No person shall be discriminated against in housing or employment on the basis of age."

CHAIRPERSON FREEMAN: Is there a second to that?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: Would you put that in as a motion, Delegate Corn?

DELEGATE CORN: I move that as an amendment.

CHAIRPERSON FREEMAN: Okay, it's been moved and seconded that we add that sentence -- and I don't believe the Secretary has a copy of that language.

DELEGATE CORN: "No person shall be discriminated against in housing or employment on the basis of age."

CHAIRPERSON FREEMAN: Discussion?

DELEGATE HARRIS: Point of information.

DELEGATE CORN: I'd like to speak to it.

CHAIRPERSON FREEMAN: Delegate Harris has a point of information.

DELEGATE HARRIS: I would like for the General Counsel to speak to that, through the Chair, if he would.

CHAIRPERSON FREEMAN: Mr. Thomas?

MR. THOMAS: Yes.

CHAIRPERSON FREEMAN: On the point of information.

MR. THOMAS: Was this language amended originally? Was the first sentence amended to include just adult citizens?

CHAIRPERSON FREEMAN: No, that sentence was deleted.

MR. THOMAS: Okay. Then I find problems in "no one shall be discriminated against in housing and employment because of age".

DELEGATE CORN: Shall I just say that no adult person shall be discriminated against -- would that cover it?

MR. THOMAS: That would make more sense.

DELEGATE CORN: Okay, I'd like to -- Madam Chair, may I amend my motion slightly?

CHAIRPERSON FREEMAN: May we have order, please, in this room?

Delegate Corn, you are out of order right now. The question has been asked to the General Counsel; he has indicated the language -- is this correct, Mr. Thomas? -- would be better if the word "adult" was inserted before the word "person"?

MR. THOMAS: That's right.

CHAIRPERSON FREEMAN: Thank you.

DELEGATE CORN: I'm willing to accept that.

CHAIRPERSON FREEMAN: All right. Would you like to explain that, Mr. Thomas?

MR. THOMAS: Yes. As stated, it appears to say any, any age -- suppose, as I stated in my example, suppose a person is 14 years old and applies for a job. Can he claim discrimination because he's not given a job, or what about a person who is 16 years old and goes to buy a house or rent an apartment; can he allege discrimination because that apartment dwelling only takes people who are 21 years old? Adult citizens. That's my point.

CHAIRPERSON FREEMAN: Thank you, Mr. Thomas.

I see the following hands in the air: Simmons, Shelton, Clarke and Talmadge Moore.

Delegate Simmons.

DELEGATE SIMMONS: Madam President, it seems to me we have this stated in the affirmative, and yet they have the housing and social services division, and I'm wondering the need for the repetition here, to state it in the negative. It's exactly the same point. It covers exactly the same prerogatives. I am wondering why the repetition, and why we would waste time in fashioning something which we know in advance is redundant, so that we then have to start redrafting and spend some additional time thinking it out and making the document consistent and not redundant.

I don't quite understand what's operating at this point.

CHAIRPERSON FREEMAN: So you were speaking against the Corn amendment.

Delegate Shelton.

DELEGATE SHELTON: It is important to know, though, that you cannot discriminate in housing for families with children. Well, that's different from the concept of age.

I think it is important to note that we do have a revision to the Act, which means that you cannot discriminate against children in housing.

If that is the intent of the Delegate, maybe it's covered already in Housing and Health and Welfare.

CHAIRPERSON FREEMAN: Delegate Clarke, did you have your hand up on this earlier?

You don't. Okay.

Delegate Talmadge Moore.

DELEGATE T. MOORE: I move the question.

A DELEGATE: Second.

DELEGATE CORN: May I speak to it?

CHAIRPERSON FREEMAN: You will, Delegate Corn, but right now I have the floor.

It's been moved and seconded that we close debate on the Corn amendment. All those in favor please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

A DELEGATE: No.

CHAIRPERSON FREEMAN: All right, Delegate Corn, you have the right to speak.

DELEGATE CORN: I think that if you leave this out, you've going to make a grave mistake, and I'll tell you why.

Under current rent control laws, for those of you who know, senior citizens who are over 62 and who have annual incomes of -- combined annual household incomes of $30,000 or less, if a building converts to a condominium or cooperative, the developer is required to keep them on as tenants for the duration of that bill, which will expire two years from this September.

It is likely that the Council will amend that bill in two years, when it comes up, to make it lifetime tenancy.

I have already seen it in my own neighborhood, which has a huge percentage of senior citizens, where senior citizens are discriminated against in housing because owners know that their buildings are not as valuable to sell to developers to convert, if the developer has to keep many senior citizens on at their current rent level.

I therefore urge you to vote up this amendment, to protect senior citizens' housing. Otherwise, while they will be protected with this statute, they will never have a place to live. It's that simple.

As in the past, they have been converted out of one building after another after another.

I also urge you to vote this up because I've seen so many people in their fifties who are still young, vital, intelligent, capable, more so than many who are in their twenties, and get thrown out of jobs in favor of people who are in their twenties, because a person in their twenties can be hired at a third the salary.

Please vote up this amendment.

CHAIRPERSON FREEMAN: The amendment on the floor, for which we have closed debate, is to add in subsection (c) the following language: "No adult person shall be discriminated against in housing or employment on account of age."

All those in favor please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Chorus of "noes".]

CHAIRPERSON FREEMAN: I'll call for a division on that. All those in favor, please raise your hands.

[Showing of hands.]

SECRETARY COOPER: Nineteen.

CHAIRPERSON FREEMAN: All those opposed, please raise your hands.

[Showing of hands.]

CHAIRPERSON FREEMAN: Delegate Nixon, only one hand.

SECRETARY COOPER: Either one, but only one.

Seven.

CHAIRPERSON FREEMAN: Abstentions?

[Showing of hands.]

SECRETARY COOPER: Three.

CHAIRPERSON FREEMAN: The Corn amendment is adopted.

Is there further discussion on subsection (c)?

DELEGATE ROBINSON: Move the previous question.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on subsection (c). All those in favor please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: All those in favor of adopting subsection (c), please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Abstentions?

Subsection (c) is adopted.

Delegate Mason?

DELEGATE C. MASON: I move the adoption of subsection (d).

A DELEGATE: SEcond.

CHAIRPERSON FREEMAN: It's been moved and seconded that we adopt subsection (d). Is there discussion?

Delegate Oulahan, Corn, then Shelton.

DELEGATE OULAHAN: Madam President, I move that the words "as provided by law" be added at the end of this section, which does not explicitly set forth the crime and would violate even the provisions of --

CHAIRPERSON FREEMAN: Is there a second to that?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It has been moved and seconded that we add, on line 18, the words "as provided by law".

Delegate Oulahan.

DELEGATE OULAHAN: The purpose is to make sure that when the new Legislature meets, it will frame a statute having the explicity which has been required earlier by the committee on the Bill of Rights. As stated here, I don't know what "acts of violence" are, I don't know what "inciting" is. And in order to protect due process and carry out the rules of the committee, I think we should have that provision.

ACTING CHAIRPERSON HARRIS: Delegate Corn.

DELEGATE CORN: I am wondering if Delegate Oulahan would accept a friendly amendment to that in order to cover his purpose?

Delegate Oulahan, I am wondering if you would accept a friendly amendment to cover your purpose, but which would not leave it so open-ended. And that would be: "as set forth by law".

DELEGATE OULAHAN: Madam Chair, the magic words are "as provided by law". The statute contains that language.

ACTING CHAIRPERSON HARRIS: Okay. Delegate Shelton is next.

DELEGATE SHELTON: Madam Chair, I wish to have instructions from you. In subsection (d), which talks about unlawful violence, I would like to propose an amendment that would form the basis of a new statute.

A DELEGATE: He's got an amendment on the floor.

DELEGATE SHELTON: I'm asking for instructions.

ACTING CHAIRPERSON HARRIS: You're saying after the word "violence"?

DELEGATE SHELTON: Right. Another section that, before we close out this section, I think that the whole question of equal rights should be spelled out in a special section on equal rights, on the basis of sex.

ACTING CHAIRPERSON HARRIS: Should that be a section after the Oulahan amendment, then you want to propose a second part of that?

DELEGATE SHELTON: Well, I was suggesting an amendment to establish a new Section 18.

ACTING CHAIRPERSON HARRIS: Okay.

DELEGATE SHELTON: But I want to make sure that I don't jeopardize my right, if you deem that it cannot be done, then I would propose an amendment.

A DELEGATE: Point of order. Isn't that one amendment on the floor? Could we do one amendment at a time?

DELEGATE SHELTON: Would you recognize me at the appropriate time?

ACTING CHAIRPERSON HARRIS: Delegate Shelton, are you indicating that want to propose a new Section 18, or are you saying -- 18? That would be in order at the end of discussion, the committee report and the minority report.

If you wanted to add a new subsection to Section 17, that would be in order after we've gone through subsection (e).

DELEGATE SHELTON: Well, I guess then I will opt to add a new section at the end -- a new section at the end of (d); as a substitute for the present section (e).

CHAIRPERSON FREEMAN: I see. Okay. I will call on you at that point.

We have an amendment on the floor, which is to add the words "as provided by law". Who has -- Delegate Kameny?

DELEGATE KAMENY: I would like to ask Delegate Oulahan why he does not consider that the language in Section (e), which refers to the whole section, including subsection (d), and enforced by appropriate legislation is better language for subsection (d) anyhow, than his, does not do the job?

CHAIRPERSON FREEMAN: Delegate Oulahan?

DELEGATE OULAHAN: Madam Chair, I guess it's clear that I don't want to leave any loose ends.

CHAIRPERSON FREEMAN: Thank you.

Is there further discussion on Delegate Oulahan's amendment? Delegate Maguire?

DELEGATE MAGUIRE: I have a point of information. I don't know if it's a bad idea to stay this late or not, but I'm really surprised at the committee, in being a little more verbal now, that we just -- people have to start paying a little more attention, because we just passed that amendment on housing as unconstitutional, and I had mentioned that to a few people and they had no idea that they had voted on that.

A DELEGATE: No, we did not.

A DELEGATE: Yes, we did.

DELEGATE MAGUIRE: Yes, we did.

DELEGATE CORN: What's unconstitutional about it?

DELEGATE MAGUIRE: So just as a point of information, if people could pay more attention to what they're doing, we might --

DELEGATE CORN: What's unconstitutional about it?

CHAIRPERSON FREEMAN: Thank you, Delegate Maguire. Is there further discussion on the Oulahan amendment?

DELEGATE ROBINSON: I move the previous question.

CHAIRPERSON FREEMAN: Is there a second to that?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on the Oulahan amendment.

May I have your attention, please?

All those in favor of closing debate on the Oulahan amendment, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Debate is now closed on the Oulahan amendment.

The Oulahan amendment would add the following words on line 18, "as provided by law".

All those in favor please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Chorus of "noes".]

CHAIRPERSON FREEMAN: Abstentions?

The amendment is defeated.

DELEGATE CLARKE: Point of order.

CHAIRPERSON FREEMAN: Delegate Clarke.

DELEGATE CLARKE: Point of procedural inquiry, I'm sorry.

CHAIRPERSON FREEMAN: Yes.

DELEGATE CLARKE: I believe a gross error was made with respect to the earlier section. Is a motion for reconsideration in order?

DELEGATE CORN: No.

CHAIRPERSON FREEMAN: A motion for reconsideration is not in order.

DELEGATE CLARKE: Can a motion be made to amend the section that was just passed?

VOICES: No.

CHAIRPERSON FREEMAN: We have --

DELEGATE JACKSON: Point of order.

CHAIRPERSON FREEMAN: Delegate Jackson.

DELEGATE CLARKE: I just made a point of procedural inquiry; I have not made any motion.

DELEGATE JACKSON: I know, but you asked if a motion for reconsideration could be made. Thank you.

Madam Chair, may we finish section (d) before we go to something else?

CHAIRPERSON FREEMAN: I think that's fair. I do think that Delegate Clarke is asking for guidance, and it wasn't --

DELEGATE JACKSON: He asked to reconsider --

CHAIRPERSON FREEMAN: I can determine what he's asking.

DELEGATE JACKSON: All right. Thank you.

CHAIRPERSON FREEMAN: He's asking for guidance on subsection (c), whether any kind of amendment would be in order to that.

I think that after we've gone through (d) and (e) we may go back and then we will debate the entire section.

DELEGATE CLARKE: Thank you very much.

CHAIRPERSON FREEMAN: Now, are there any further amendments or is there any further discussion on subsection (d)?

Delegate Corn.

DELEGATE CORN: I move to add --

DELEGATE ROBINSON: Point of order.

CHAIRPERSON FREEMAN: Delegate Robinson.

DELEGATE ROBINSON: Madam Chair, I moved the previous question; it was duly seconded, and you are now opening the floor back to Delegate Corn.

CHAIRPERSON FREEMAN: Thank you. I thought you did that on the Oulahan amendment.

DELEGATE ROBINSON: It has been seconded, and it --

A DELEGATE: No.

DELEGATE ROBINSON: -- and the orders of the day should move forward.

DELEGATE CORN: Point of order, Madam Chair.

Point of order.

CHAIRPERSON FREEMAN: Delegate Corn, I have not called on you.

DELEGATE ROBINSON: Thank you.

CHAIRPERSON FREEMAN: Delegate Robinson, my understanding was that we voted on the Oulahan amendment, we voted it down; at that point celegate Clarke had a point of procedure, and at some point Delegate Jackson had a point of order. Those two issues were clarified. I don't remember ever recognizing anybody on calling the question for the entire subsection (d).

Thank you.

Delegate Corn.

DELEGATE CORN: I would like to add, on line 17, between the words "race" and "color", the word "religion".

CHAIRPERSON FREEMAN: Is there a second to that?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that on line 17 we add the word "religion" between the words "race" and "color". Discussion?

DELEGATE CORN: May I ask that it be just accepted?

CHAIRPERSON FREEMAN: I think probably we can do that.

All those who are in favor of adding the word "religion" between the words "race" and "color", please say"aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: All right, the word is added.

Is there further discussion on subsection (d)?

Delegate Nahikian?

DELEGATE NAHIKIAN: Move the previous question.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on subsection (d). All those in favor please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Several "nays".]

CHAIRPERSON FREEMAN: Abstentions?

All right. Debate is closed on subsection (d).

All those in favor of adopting subsection (d), please say "aye".

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[Chorus of "ayes".]

CHAIRPERSON FREEMAN: Those opposed?

Abstentions?

Subsection (d) is adopted.

Now we have Delegate Shelton.

DELEGATE SHELTON: I want to amend by inserting the following line: "That the equality of rights under the law shall not be denied or abridged in the State of blank or any of its subdivisions on the basis of sex."

[Several Delegates seconded.]

CHAIRPERSON FREEMAN: Okay. I made a slight procedural error, Delegate Shelton. We need to move the adoption of subsection (e) and you have to move for a substitute motion.

DELEGATE SHELTON: Well, I wish to insert this before the final --

CHAIRPERSON FREEMAN: I understand. This will be a substitute for subsection (e), then we move subsection (e) here to subsection (f), if adopted.

Delegate Mason?

DELEGATE C. MASON: You said to move (e) to (f)?

CHAIRPERSON FREEMAN: That's what I'm saying.

We are at subsection (e) right now.

DELEGATE C. MASON: I will move what is shown here as subsection (e) which will become subsection (f) --

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we adopted subsection (e).

Delegate Shelton has moved, and I'll just repeat it for the sake of expediency, that we make a substitute motion for subsection (e) which would read as follows -- Delegate Shelton, would you like to read it one more time? I think we can probably dispose of this quickly.

DELEGATE SHELTON: "That the equality of rights under the law shall not be denied or abridged in the State of blank or any of its subdivisions on the basis of sex."

CHAIRPERSON FREEMAN: Is there a second to that?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: Is there discussion?

Delegate Kameny?

DELEGATE KAMENY: Yes. I should like to ask Delegate Shelton what this amendment does that is not already well covered by the language in (a), that every person -- keep in mind that sex is mentioned on line 5 -- that every person shall have fundamental rights to equal protection of the laws and to be free from historic group discrimination based on sex.

I do not see, perhaps I am missing a point, and I inquire of you what your amendment does that is not simply repeating what is already done?

DELEGATE SHELTON: Well, in some ways it is emphasis, sir. And allows us to place special emphasis in this constitution to the question, as we did on the question of youth.

CHAIRPERSON FREEMAN: Delegate Shelton, are you through speaking to your --

DELEGATE SHELTON: No, I was trying to answer the Delegate's question.

CHAIRPERSON FREEMAN: Is there further discussion on the Shelton motion?

Delegate Maguire?

DELEGATE MAGUIRE: I rise to speak in favor of the motion, and say that if we just want to be consistent with many things in this article, where we spell things out, just for reinforcement; and I think this is an area that is justified for reinforcement.

CHAIRPERSON FREEMAN: Thank you.

Is there further discussion on the Shelton motion?

DELEGATE ROBINSON: I move the previous question.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on the Shelton motion. All those in favor of closing debate, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Debate is closed.

The Shelton motion would substitute subsection (e) with the following language: "Equality of rights under the law shall not be denied or abridged in the State of blank or any of its subdivisions because of sex."

All those in favor --

DELEGATE JACKSON: Point of order.

CHAIRPERSON FREEMAN: Delegate Jackson.

DELEGATE JACKSON: Just one thing, Madam Chair, is that we as a committee -- it is not our intent here to become not only the silent drafter in this, because we have also dealt with sex in the other thing; it would not be out intent to take out sex up there.

So we just hope the silent drafting of anyone would not be confused.

CHAIRPERSON FREEMAN: Thank you. I think that's clear to the Delegates.

DELEGATE CORN: Point of order, please.

CHAIRPERSON FREEMAN: Delegate Corn, we are on the road to voting for this section. Unless you have a critical point, I'd like to bring this to a vote.

All those in favor of the Shelton motion, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Chorus of "nays".]

CHAIRPERSON FREEMAN: Abstentions?

The Shelton motion is adopted.

Delegate Mason.

DELEGATE C. MASON: I move subsection (f) with the language shown here as former section (e).

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we adopt subsection (f) with the language shown in the previous subsection (e).

Is there a discussion? Is there discussion on this motion?

Delegate Robinson?

DELEGATE ROBINSON: Yes. With subsection (e) now becoming subsection (f), I refer back to the comments made by

Delegate Schrag, the learned professor from Georgetown University. He pointed out to us that there was conflicting and confusing language in subsection (e) that is now (f).

For instance, he noted that the section stated that the section shall be self-executing, and yet it says, in a turnaround manner, enforced by appropriate legislation.

I ask for further verification, if our counsel is also in agreement that this particular section is confusing and would he please give us his interpretation of the section?

CHAIRPERSON FREEMAN: Mr. Thomas?

Can you clarify the old subsection (e), that was the question that was asked of you, whether it is conflicting.

MR. THOMAS: Right now I would like to hear the committee's rationale as to the use of the terms.

CHAIRPERSON FREEMAN: Would the committee care to respond? Delegate Marcus, for the committee?

DELEGATE MARCUS: Yes. What it's meant to do is essentially two things.

By self-executing -- right -- by self-executing we essentially mean that the individual retains a private right of action with regard to any discrimination which he or she may face in conformance with this particular article.

By appropriate legislation, we mean that in fact --

in fact the State has an obligation to enact legislation to also enforce and support the language which happens to exist in this article.

I'm afraid that Delegate Schrag was wrong. The Thirteenth, Fourteenth and Fifteenth Amendments do precisely the same thing that this particular language in subsection (e) now subsection (f) is doing. It is not conflicting, it simply provides two avenues for enforcing the right guaranteed under the section on freedom from discrimination.

MR. THOMAS: It says that Congress shall have the power to enforce by appropriate legislation the provisions of authority.

DELEGATE MARCUS: Right.

MR. THOMAS: Now, are you presuming that -- you're presuming that it's self-executing. Okay.

That's all I want to say. The articles do not -- the Thirteenth, Fourteenth and Fifteenth Amendments do not say it as you say it. They say, as I read it, the Congress shall have power to enforce by appropriate legislation the provisions of this article.

However, the Bill of Rights are supposed to be self-executing anyway.

So I would reserve any criticism of this article.

DELEGATE C. MASON: Do you think it would be clarified if the words "may be" were inserted between the "and" and "enforce". "And may be enforced by appropriate legislation".

MR. THOMAS: Well,I don't think that does anything one way or the other. They are trying to enforce -- they are putting "shall" in so that the Legislature will write legislation to enforce the legislation.

DELEGATE C. MASON: All I'm saying is that "shall be", may be inserted in there to make it a little clearer.

MR. THOMAS: Make it a little?

DELEGATE C. MASON: A little clearer.

MR. THOMAS: Okay.

DELEGATE C. MASON: If the committee would simply add "shall be".

MR. THOMAS: Style and Drafting will do that.

CHAIRPERSON FREEMAN: Between the words "and" and "enforced".

DELEGATE C. MASON: Yes.

CHAIRPERSON FREEMAN: Okay. Thank you. Is there further discussion on subsection (f)? Delegate Mason?

DELEGATE H. MASON: I have a question I'd like to ask my husband, Delegate Charles Mason.

Delegate Charles Mason, I'd like to ask you what does "self-executing" mean?

CHAIRPERSON FREEMAN: Could we have order in the room, please? Could we have it quiet, please?

A question has been asked to Delegate Charles Mason, and I'd like to have quiet. Delegate Charles Mason.

DELEGATE C. MASON: If you will remember when the Convention Center initiative was being -- we were attempting to get it on the ballot, there was a question about whether the charter amendment that says one could have an initiative was self-executing, when the Council hadn't gotten around to passing the implementing legislation.

That's what we mean by self-executing. That is, that the constitutional provision or, in that case, the charter provisions are enforced even though no legislation on the subject has yet been adopted by the legislative body.

And the court held in that particular case that the charter amendment was not self-executing, that's why the board of elections at that point in time would not put the question on the ballot. Because the Council had not yet adopted any legislation.

DELEGATE H. MASON: Thank you. I want to know further if you put a period after self-executing -- this is hypothetical -- and did not provide for legislation, how would it be enforced?

DELEGATE C. MASON: Well, it could be enforced just from the fact that it is here.

Now, I do not say that the Legislature will adopt legislation, but this language here is to show that it is enforced even without legislation, but we think probably the Legislature should adopt some further details and provide the procedures for this enforcement.

For instance, these rights are listed here but the constitution itself doesn't set up any agency to administer them. The Legislature should do that, among other things.

DELEGATE H. MASON: And if it requires a budget, how do we do that?

DELEGATE C. MASON: If the Legislature sets up an enforcement agency, obviously that agency will require funds. And will request appropriate funding in the budget, for such.

DELEGATE H. MASON: How does that make it self-executing?

DELEGATE C. MASON: Self-executing simply means that if this right is violated, you have the right to go into court to do something about it.

DELEGATE H. MASON: But if it is self-executing?

DELEGATE C. MASON: You don't have to sit around and wait for the Legislature to pass laws.

DELEGATE H. MASON: I thank you, Delegate, I wanted that on the record.

CHAIRPERSON FREEMAN: Thank you. Is there further discussion on subsection (f)?

Further discussion?

DELEGATE KAMENY: I move the previous question, Madam Chair.

A DELEGATE: I second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on subsection (f). All those in favor of closing debate, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Debate is closed on subsection (f). All those in favor of adopting subsection (f), please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Several "nays".]

CHAIRPERSON FREEMAN: Subsection (f) -- oh, excuse me, abstentions?

Subsection (f) is adopted.

Delegate Clarke?

DELEGATE CLARKE: I have an amendment --

SECRETARY COOPER: You need to move the whole article.

CHAIRPERSON FREEMAN: Oh, you are right. Okay, Delegate Mason? Move the whole section.

DELEGATE C. MASON: I move the whole Section 17.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we adopt Section 17. Is there discussion on that?

Delegate Clarke?

DELEGATE CLARKE: Madam Chair, it appears to me that in prohibiting discrimination against any adults in housing or employment on account of age, we have effectively precluded senior citizens buildings in the District of Columbia. Senior citizens buildings are building which are designated for occupation by senior citizens. /sic/

I understand that it is not possible to move for reconsideration of what we have passed. Accordingly, I have submitted an amendment, the wordage of which I've forgotten, so if you'd assist me by reading it.

[Laughter.]

CHAIRPERSON FREEMAN: It would read as follows: "Except that services limited to senior citizens may be provided."

DELEGATE CORN: I second that.

CHAIRPERSON FREEMAN: It's been moved and seconded that we add that language. That would be at the end of subsection (c). Is there discussion on that?

DELEGATE KAMENY: Call the question.

DELEGATE CORN: Could it be read once more?

CHAIRPERSON FREEMAN: I'll read it one more time. "Except that services limited to senior citizens may be provided."

The question has been called. All those in favor of closing debate on this, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Delegate Cooper?

SECRETARY COOPER: Not to be a stickler, but our normal procedure is, we've already adopted all these sections, and an amendment really wouldn't be in order on a given section at this time. Although I do realize that we do have a serious flaw in here.

CHAIRPERSON FREEMAN: I think what I would like to do to this is to leave it to this body to decide whether it is willing to accept this amendment to subsection (c).

The question had been called and we closed debate on this. So I would like tonow bring this to a vote. And I think Delegate Cooper has pointed out properly that this is somewhat unusual, in that we had already adopted subsection (c), and I would now -- leaveing it to the delegates to decide whether to add this language.

All those in favor of adding this language, please say "aye".

[Chorus of "ayes".]

CHAIR PERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Abstentions?

The language is adopted.

Is there further discussion on the adoption of Section 17?

Delegate Love.

DELEGATE LOVE: Madam Chair, I'd like to ask the counsel a question. I'd like to read the final paragraph of his comment about this section.

"The consequence of intermingling unenforcible statements of principles with guarantees of actual rights is a problem in this section. It weakens the latter because every challenge to a specific guarantee of rights, the argument can then be made that it, too, is merely a declaration of principle not independently subject to the judicial enforcement."

What I would like to ask him is: After we have now dealt with this section -- it's a yes or no question -- would he in any way substantially change what he has said at the bottom of this section?

CHAIRPERSON FREEMAN: Mr. Thomas?

MR. THOMAS: First of all, never expect a yes or no answer from a lawyer. But, anyway, I did write that. And some of those concerns have been buttressed by some of the amendments that have been offered, particularly in the -- in subsection (b), which was otherwise, as I say, is an open-stated principle, which was unenforcible. But which was subsequently amended by Ms. Eichhorn's language, which may give some enforcible right to it by legislation.

Also (c) was subsequently amended to give it some weight, but still there are words here that will ultimately have to -- there are phrases here that will ultimately have to be defined by a court of law. I see no other way.

Phrases like "the services necessary for their development and welfare", "enjoyment of health and well-being". I think that the amendments have eased my fears, my concerns, somewhat; but I do think that some of these phrases, many of these phrases will be ultimately decided in a court of law.

Does that answer the question?

CHAIRPERSON FREEMAN: Is there further debate on Section 17?

The question has been called. Is there a second?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on Section 17. All those in favor please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: The motion on the floor is to adopt Section 17. All those in favor of adopting Section 17, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Abstentions?

Section 17 is adopted.

Delegate Mason?

DELEGATE C. MASON: I move Section 18. I would call attention to the fact that it has three subsections (a), (b) and (c). And that there's a misprint in the copy that was sent out, in that one whole sentence in subsection (c) is missing.

At the time we reach subsection (c) I will ask Delegate Marcus to read subsection (c) to provide the missing language.

CHAIRPERSON FREEMAN: Thank you, celegate Mason.

Is there a second to the adoption of Section 18?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we adopt Section 18. On (a), is there discussion?

Delegate Corn?

DELEGATE CORN: Unless I have lost the ability to read, it seems to me one word was inadvertently left out on the first line of (a), which is line 2.

The word "not" to be inserted between "or" and "to", so the first line reads: "The right of the individual to decide to procreate or not to bear a child is inviolable," et cetera.

CHAIRPERSON FREEMAN: Would the committee respond? Is that deliberate or is that an omission?

DELEGATE KAMENY: It is simply a simplification of language. You have the choice of whether to do something, there's also the choice of whether not to; and the implicatio is there. You choose one way or the other, if you have the choice; that is all that means.

DELEGATE CORN: Therefore, Madam Chair, I move that that word be inserted for clarity, so that future generations can have no misunderstanding.

[Delegate Baldwin now assuming the chair.]

DELEGATE MARCUS: Mr. Chairman.

ACTING CHAIRPERSON BALDWIN: Yes?

DELEGATE MARCUS: The way that Delegate Corn has suggested the use of the word "not" is a substantive change in the language. What it does is give you the individual the right to decide whether to procreate and whether to not bear a child. Right?

DELEGATE CORN: Well, it's the same thing.

DELEGATE MARCUS: No, it's not the same thing, Delegate Corn. The aame thing would be to decide whether or not to procreate. Putting the word "not" after the word "or" applies the negative only, only to the last phrase of that sentence: bear a child.

So you are making a substantive change in there, what you are essentially doing, Delegate Corn, in there is by saying that the individual does not have the right to decide to in fact bear the child.

DELEGATE CORN: May I ask Delegate Marcus something, then?

ACTING CHAIRPERSON BALDWIN: Just a second, please. Was that motion seconded?

A DELEGATE: No.

ACTING CHAIRPERSON BALDWIN: Therefore it's not on the floor.

DELEGATE CORN: I'd still like to ask the committee.

ACTING CHAIRPERSON BALDWIN: Delegate Shelton?

DELEGATE SHELTON: I want to make very clear my intent with respect to this section, so I would like for the Delegates to listen very carefully.

I wholeheartedly support all of the principles embraced in this section, but I believe, as a female, that I would like to have emphasis placed on one of the aspects in Section 18, on the whole question of reproduction.

Therefore, I wish to amend by dividing the first part of the section of the rights of the individual, and substitute in a separate section a section called Freedom of Reproduction. And include in that the language that the -- a one-line sentence, that the freedom of reproduction, reproductive choice; and end that sentence with that one single line. And then take up the question of the second part of the sentence, under a separate section.

Am I clear, Mr. Chair, as to my desire?

ACTING CHAIRPERSON BALDWIN: With the exception of question in the second -- you say you would take no one, you would change the title of Section 18?

DELEGATE SHELTON: Yes, sir.

ACTING CHAIRPERSON BALDWIN: You are dealing now with that first paragraph?

DELEGATE SHELTON: Yes, sir. The first sentence, the first phrase in the paragraph.

ACTING CHAIRPERSON BALDWIN: Where does it begin and stop?

DELEGATE SHELTON: "The right of the individual" and ends with -- well, in line 2, "The right of the individual" and ends, in line 3, "to bear a child is inviolable."

ACTING CHAIRPERSON BALDWIN: So you take that sentence and put a period after that. And in fact create another section under the heading of Reproduction, was it?

DELEGATE SHELTON: Reproductive Choice.

ACTING CHAIRPERSON BALDWIN: Okay, yes, I understand.

And then the remaining part of that, lines 3 through 5, would remain under Privacy?

DELEGATE SHELTON: Correct.

ACTING CHAIRPERSON BALDWIN: Yes. Okay. That's proper.

DELEGATE SHELTON: I so move.

A DELEGATE: Second.

ACTING CHAIRPERSON BALDWIN: There is a substitute motion by delegate Shelton, to take line 2, beginning with "The" and ending "inviolable", period, transfer that to section, and we'll call that Section 18(a) for the time being; and it would have a separate heading, Reproduction, et cetera.

Then she would take the remaining of the lines 3 through 5 and leave it under Section 18 as Privacy. That's the intent of her motion.

Discussion?

Mr. Robinson, and then we'll ask the committee to respond.

DELEGATE ROBINSON: Mr. Chair, I stand to speak against the separation as advanced by Delegate Shelton.

In fact, Mr. Chair, I will hope that this entire section would be removed from this proposed document. I do not feel that this constitutional convention should be involved in the right or the right not to bear a child. But that that is a private decision, reserved to the mother and father of the -- in this particular situation.

And I would ask my brother delegates not to support the separation of, or in fact to support this entire section.

ACTING CHAIRPERSON BALDWIN: Is there further discussion?

Delegate Jordan.

DELEGATE JORDAN: Mr. Chair, I'd like to move to amend the section by striking out the words "or to bear a child".

A DELEGATE: Second.

ACTING CHAIRMAN BALDWIN: I think in order to move in the proper perspective, we first have to amend -- react to it and then decide whether or not we --

A DELEGATE: I'll second it.

ACTING CHAIRMAN BALDWIN: It was seconded. And then we'll ask the committee to react to it.

DELEGATE KAMENY: Mr. Chair, the committee is reacting now, to the motion specifically on the floor, which is Delegate Shelton's motion --

ACTING CHAIRMAN BALDWIN: Right. That's what I'm saying.

DELEGATE KAMENY: -- and not Delegate Jordan's motion.

ACTING CHAIRMAN BALDWIN: Right. Right.

DELEGATE KAMENY: The committee is opposed to this on the ground that the rights are there as set out, assuming we adopt them, that Delegate Shelton's motion is more -- is essentially stylistic only that the importance of an article on rights such as this is to establish the right, and that her motion simply rearranges things, and neither provides -- neither adds, subtracts, amends or alters in any way substantively what is being provided.

Therefore, it is our position that the language, as provided here by the committee, should stand, certainly in so far as Delegate Shelton's motion is concerned, because she is not really changing what the committee has suggested to you.

We therefore urge that that motion be voted down.

ACTING CHAIRMAN BALDWIN: Further discussion?

Delegate Corn.

DELEGATE CORN: Point of information. And I'd like the committee to respond.

Would you explain in very clear English what the first sentence up to and including the word "inviolable" means; does that mean that an individual has the right to decide that no -- no one can stop an individual from deciding to have children; but, on the other hand, no one can refuse -- if a person decides to choose whether or not to have a child, or to choose whether or not to have an abortion, that right is also inviolable? Would you please tell me that?

DELEGATE KAMENY: It clearly -- the language --

DELEGATE CORN: My mind is not clear, that's why I'm asking.

DELEGATE KAMENY: It's clear. The right of the individual to make the decision respecting procreation and bearing of children. Any -- the very essence of a decision implies that there is an option to choose yes or to choose no. That is what decisions are all about. That's the nature -- the conceptual nature of a decision.

Therefore, if you are given the right, as you are here, to decide whether to do something, you obviously have the option to decide up or decide down, to decide ys or to decide no, to decide whether to procreate or decide not to procreate, decide to bear a child or decide not to bear a child. And no one can interfere with your choice of those options. That is what it says.

ACTING CHAIRMAN BALDWIN: Delegate Eichhorn and then Delegate Harris.

DELEGATE EICHHORN: I would like to state that I am in sympathy with Delegate Shelton's intent, but having heard Delegate Robinson's remarks, I'm opposed to dividing for this reason: I agree with most of what Delegate Robinson said. He said the decisions in all these areas should be a private matter, to be left to the individual.

That is what this states. And I believe that by placing it under Privacy, you're emphasizing the belief that these are private decisions, that individuals should make for themselves.

I think that's an important concept. We are not advocating any course of action. We are saying that each individual has the freedom to choose, and not suggesting in which direction the choice should be made.

I think placing it under Privacy is appropriate emphasis for that front, and I think it's very important that these rights be provided to citizens of the United States.

ACTING CHAIRMAN BALDWIN: Delegate Harris.

DELEGATE HARRIS: Delegate Kameny?

DELEGATE KAMENY: Yes.

DELEGATE HARRIS: I guess my question to you is that you mentioned that procreate -- when Delegate Corn asked the question, you said procreate meant to determine or to make a decision.

DELEGATE KAMENY: No, I said "decide" means to determine or make a decision.

DELEGATE HARRIS: Means the same thing, yes.

DELEGATE KAMENY: That is the word that is there.

DELEGATE HARRIS: Let me finish. You said it means to decide to determine to make a decision.

The dictionary does not state that. The dictionary states that "procreate" means to create, to produce offspring, to reproduce, to beget offspring. Which, to me, says the same thing as to bear a child.

DELEGATE KAMENY: Right. And the --

DELEGATE HARRIS: That the two terms "procreate" and "bear a child" actually mean the same thing.

DELEGATE KAMENY: Delegate Harris, surely you recognize that procreation is a complex process, that the bearing of a child is a complex process.

DELEGATE HARRIS: Not that complex.

DELEGATE KAMENY: It doesn't happen just like that.

DELEGATE HARRIS: It's not that complex.

DELEGATE KAMENY: It involves quite a number of acts and stages --

A DELEGATE: How would you know?

DELEGATE KAMENY: If it's necessary for me to give you lessons --

DELEGATE HARRIS: Stop screaming! It does not mean to decide to make a decision.

DELEGATE KAMENY: If necessary --

DELEGATE HARRIS: I think, Delegate Kameny -- I think I know the process better than you!

[Laughter.]

DELEGATE KAMENY: Therefore, the individual has the right to make the decisions and --

DELEGATE HARRIS: It's not a decision.

DELEGATE KAMENY: No. Therefore the --

DELEGATE HARRIS: The terms are the same.

DELEGATE KAMENY: No, therefore, the individual has the right to make the decision --

DELEGATE HARRIS: It should be "either/or".

DELEGATE KAMENY: -- at all of the various stages. That is what it says.

DELEGATE HARRIS: Then what I'm saying is that you ought to state the right of an individual to decide or to bear a child, and precreate needs to come out.

ACTING CHAIRMAN BALDWIN: Okay. We have responded to the questions.

A DELEGATE: I can clarify this.

ACTING CHAIRMAN BALDWIN: Yes. At this point --

A DELEGATE: Can I clarify that for you?

ACTING CHAIRMAN BALDWIN: No, no. At this point the only thing in order is to vote, it's not debatable, we allowed you to answer a few questions, so the body will now --

DELEGATE SHELTON: May I have a final statement?

ACTING CHAIRMAN BALDWIN: Pardon?

DELEGATE SHELTON: May I make a final statement before acting on this?

ACTING CHAIRMAN BALDWIN: It's not debatable at the point of decision.

DELEGATE SHELTON: All right.

ACTING CHAIRMAN BALDWIN: The only thing now before us, Delegate Marcus, is to vote whether or not we shall divided, as Delegate Shelton's motion so states.

Those in favor of the division --

DELEGATE JORDAN: Point of order.

ACTING CHAIRMAN BALDWIN: You must state your point of order, and it must be showing the rules are being violated.

DELEGATE JORDAN: Yes, Mr. Chair, this is on a substitute motion, I mean an amendment to Delegate Shelton's motion.

ACTING CHAIRMAN BALDWIN: It's not on the floor.

DELEGATE JORDAN: What?

ACTING CHAIRMAN BALDWIN: It can only be -- we have to divide first, and then yours will be in order.

The only problem that we can deal with at this time is to act on her decision (sic) and therefore, that's what you're voting on now.

Those in favor of Delegate Shelton's motion to divide signify by a show of hands.

[Showing of hands.]

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SECRETARY COOPER: Three.

ACTING CHAIRMAN BALDWIN: Those opposed, please raise your hands.

[Showing of hands.]

SECRETARY COOPER: Nineteen.

ACTING CHAIRMAN BALDWIN: Abstentions?

SECRETARY COOPER: None.

ACTING CHAIRMAN BALDWIN: Delegate Shelton's motion was defeated, and Delegate Jordan, amendment is in order at this point.

DELEGATE JORDAN: I withdraw my motion.

ACTING CHAIRMAN BALDWIN: Delegate Jordan has withdrawn his motion.

Delegate Street?

DELEGATE STREET: I move that 18(a) be deleted from the document.

A DELEGATE: I will second.

ACTING CHAIRMAN BALDWIN: It's been moved and seconded that we delete -- by the way, that's the same amendment Delegate Talmadge Moore had. He has it in writing.

Delegate Talmadge Moore, we are now to yours.

DELEGATE T. MOORE: Okay, do you want me to speak?

ACTING CHAIRMAN BALDWIN: The exact words, it's been moved and seconded to delete Section 18(a). Discussion?

Delegate Moore?

DELEGATE T. MOORE: Yes, sir, Mr. Chairman.

I rise to support the striking of this article. I certainly and unequivocally support the rights of all individuals and their freedom, and have no desire to prevent a lady from her own choice as to what she should do with her body.

However, I contend that the section is too controversial. It should not be placed in the constitution. The Supreme Court has rendered a decision, and presently litigation is going on in several other States pertaining to this matter. We have different cultural and ethnic groups in the new State, that we are considering their views, such as religious movements, such as Protestants, Jews, Catholics, Muslims and many others. People who make up these groups have different laws, standards, values and traditions.

Available research indicates that the views of the Roman Catholic Church indicate that reading denotes that destruction of a fetus constitutes the taking of a human life.

Now, the medical personnel may differ from this, in therapeutic aspects also.

I believe that the views of the clergy and higher law and moral obligation, which should strengthen legal codes.

I recommend to this body not only that it be taken out of context, taken out of this section, and placed in another section, but not in the constitution.

That our position must be in agreement with community personnel. I think they should be considered.

We have the initiate, the referendum, and other methods for legislation.

ACTING CHAIRMAN BALDWIN: Time is up.

DELEGATE T. MOORE: I have a couple more --

ACTING CHAIRMAN BALDWIN: Delegate Street? Delegate Moore, you cannot exceed your time.

DELEGATE STREET: I rise in support of the amendment for two reasons. No. 1, we have given in section 17 all the liberal -- spoken to all the liberal rights that any individual would want us to have. It is not necessary to repeat in this form.

Secondly, I think it would help the passing of this constitution if we would eliminate discussion and remain silent on the issues addressed in Section 18(a). It's for those who read this that I urge the motion of the delegate to delete Section 18(a) from the constitution.

ACTING CHAIRMAN BALDWIN: Delegate Graham.

DELEGATE GRAHAM: May I say this, this is a very touchy subject. I am opposed to deleting it. If we say freedom to individuals, and we've been talking about it all night, whether you mean partial freedom, so far as you can list them, and when you start listing something you leave out something. When you start listing this, that and the other, that people are given, when you look at that list and you say, well, I left out something; look at it two or three weeks later and see if you won't say, I have left out something.

If you really mean freedom, do you mean I'm giving somebody something, I'm giving them this, this, this and this; or do you really mean freedom?

If you mean freedom, then it means there are no limitations as I see it. If you delete this, then that means you mean free according to what you have in this constitution. And that's all.

Since some of the things may have been left out, then I would advocate leaving (a) in, and if those people on the Hill will not accept this constitution, they didn't see this years ago, so that could not be the main reasonwhy they would not accept it.

I would like to see, and I do know there are many people, I think you are going to have it conforming to our community in which we live. Then we need to address it to all citizens in all parts of the community.

It is for that reason that I am speaking against that amendment, because I think 18 must subject some people's needs, and I do know this that some people spoke to me about it and asked me to support it. And I decided yes, I'll do it. I thought for a while.

Then I said yes, I will. Because when you say "freedom" to me, it means that I'm free to do anything I choose, as long as it does not hurt anyone else. Because I don't -- I place the restrictions on myself, not somebody outside --

ACTING CHAIRMAN BALDWIN: Time, Delegate Graham.

Delegate Simmons.

DELEGATE SIMMONS: Yes. Mr. President and fellow Delegates:

I rise to speak against the amendment. I can't believe what I hear falling out of the mouths of my friends.

Three hours and twenty minutes after we have discussed Section 17, which clearly is controversial, and if we -- we can't deal with this because this is controversial!

Then, in fact, all we're saying is that those who wish to make personal private decisions about their personal being should be afforded that right. We are forcing no one to violate anyone's conscience, anyone's religion, anyone's ethnic code, any code of ethics, whatever.

I just can't believe it. And I know we are overtired, and so I just smile and say, Good friends and Delegates -- you know, he isn't through yet, he's got three more items down here.

[Laughter.]

DELEGATE SIMMONS: Each of the other two reasons to be opposed to it is equally as inconsistent as the first three were.

So I would like to have us save some time and be consistent in one aspect of our behavior; although it was long and laborious to get through 17, we demonstrated that there was high respect for individual's rights through this, and respectfulness of our total fellow human beings.

Theresa, I didn't talk when you were talking.

DELEGATE JONES: Oh, I'm sorry.

DELEGATE SIMMONS: So all I'm saying is that let us not cease being respectful of the individuality of all who may not include our own particular ideosyncratic desire, and vote this amendment down, and let's move on with approving all

Sections (a), (b) and (c) of Section 18 on Privacy.

Thank you.

ACTING CHAIRMAN BALDWIN: Delegate Freeman.

DELEGATE FREEMAN: I would like to support what Delegate Simmons has said and what other Delegates have said here on Section 18(a), and I want to speak to my aspect of 18(a).

That aspect is the part that -- thank you -- in particular the first half of Section 18, lines 1 and 2, or I should say 2 and 3.

What this section protects is not only a woman's right to choose, but all aspects of reproduction, abortion, birth control, it protects women against forced sterilization, it protects women and men against experimentation on their bodies; and I should note that it's particularly the poor and minority women who are subjected to that form of experimentation. And it also protects the right of individuals to choose to have children and to choose not to have children.

I will point out that in China, for example, family sizes are limited to two children. This allows the right to have many children or to have none.

Don't kid yourselves that women haven't been trying to get control of our bodies in every culture over history. It has always gone on, and it always will go on. YMu will always find the issue of birth control and abortion over history.

Some people say that the right of abortion is equivalent to genicide. That is wrong. This section, as I want to point out, protects against forced sterilization, and I also want to point out that when abortion was illegal, many, many women died, especially poor women, because that procedure was illegal. And so they were forced to seek unsafe abortions.

Like it or not, women vote with our bodies. The vast majority of women in this country want this right, the vast majority of women in D. C. want this right preserved. Earlier this evening the Chair from the Commission of Women was here; she had to leave because it's whatever time it is -- to talk to delegates about this.

I also want to point out there is not one civil rights group in this country which does not support this right. Not one.

And I think the reason for that is that we understand that women and blacks in particular have common enemies.

I respectfully request permission to speak a little bit longer, I have not spoken at all this evening.

VOICES: No, no.

ACTING CHAIRMAN BALDWIN: Delegate Croft.

DELEGATE CROFT: I rise to ask that this amendment be voted down. Section 18 protects a very, very basic right. A basic fundamental right. It does not impose that a person have a child or not have a child. It simply says that that choice is that individual's personal choice. It is not imposed a Roman Catholic belief on me, a Protestant belief on me, a Hindu belief on me, a Buddhist believe on me.

It says that I, as a human being, am free to make a basic fundamental choice. It does not interfere with anyone's rights at all.

Indeed, it protects a person's personal rights. And what we are talking about is the most fundamental choice that a person makes. It's very simple. That fundamental choice that a person makes should be not something that the State can, in any sense of the word, dictate.

In other words, w-at we're saying is that the State has no authority to dictate to a person whether they will have a child, not have a child, or whether they will be steilized, experimented with or not. We're saying that a person's human body is to be inviolable, and that it cannot be dictated to by the State.

It's very simple, it protects the most fundamental and basic rights of an individual person.

ACTING CHAIRMAN BALDWIN: Delegate Bruning?

DELEGATE BRUNING: Yes, I, too, want to speak against this amendment. We've been told it's a controversial issue. Indedd it is. But we have not run away from controversial issues.

But I say that we are in far better shape if we put in language which does not include the views of a particular religion or a particular group, because it might cause anyone to violate a belief of their religion or their heritage. We are far better shape if we do that now in this document than if we remain silent on it and then allow it to become a political football in a legislative arena, subject to all the whims and fancies of changing politics.

We have an opportunity to say, right here and now, we are willing to respect each and every person's right to make very personal, very private decisions that are between that person and themselves, their partner and their God. And that is what we leave them with.

We then elect to do that without violation of anyone else.

If we move into an open, untouched area, we leave it open to violation.

ACTING CHAIRMAN BALDWIN: Robert's Rules of Order allows the Chair, as a balancer, to say, after someone speaks in opposition, it allows the Chair to ask for those with opposing views.

Anyone to speak now for it?

No, we'll take them in order. No, no, just a second. We have to follow in order.

The next person would be Harry Thomas. Are you for or against?

DELEGATE THOMAS: I would move the question.

ACTING CHAIRMAN BALDWIN: No. Marcus, for or against?

DELEGATE MARCUS: I will speak last.

ACTING CHAIRMAN BALDWIN: You would be the last one, right.

Nahikian, for or against?

DELEGATE NAHIKIAN: I would speak against the amendment.

ACTING CHAIRMAN BALDWIN: Delegate Cooper, for or against?

SECRETARY COOPER: For.

ACTING CHAIRMAN BALDWIN: You may speak.

SECRETARY COOPER: Yes. Fellow Delegates, I heard you vote up the amendment to strike this section.

You know, it amazes me how in this convention all of a sudden so many things become so much "basic" and such "fundamental rights" when they weren't basic and fundamental rights before. These things that aren'tspelled out as being basic and fundamental in our United States Constitution or in several other State Constitutions, all of a sudden are.

That really amazes me.

I think this section doesn't really address the issues. If it were to address the issue of privacy, why just address two or three issues, why not address them all?

I can see here a lot of things that I do in privacy that aren't addressed in this article. So why shouldn't they be covered? I think they are very basic and fundamental rights to me.

I think this speaks only to a very, very limited interest, and I think that this would do great damage to our constitution to have these particular privacies spoken to that, my own beliefs are that these are not very high moral type of standard, anyway; I would not like to see them in the constitution. I would not like to see these imposed upon me. I would not like to see them imposed upon my friends or any members of my family.

So I urge you to vote up the amdnemtnt o strike this section, on its moral lack of merit.

ACTING CHAIRMAN BALDWIN: Delegate Jones, for or against?

DELEGATE JONES: I am for.

ACTING CHAIRMAN BALDWIN: Speak.

DELEGATE JONES: But I'd like to raise a very basic question. You know, being female and black and poor and all those other things, I know who the enemy is. I want to tell you.

As others and I have fought long and hard for women to have the right to have an abortion, if that's what they choose. But there's another problem here.

Social Security laws, and, see, we're the people who go to VHS and get the business and we have to go for a check for a child.

Can a man bck off and say, I didn't choose to have this child, therefore I am not responsible for it?

What happens to me then? What happens to me when I have to go there because I have to feed this child? Can I say, well, this man backed off and said he didn't choose? Or do I go and sign a statement of parentage so he can be hauled into court and the judge says he must pay, whether he does or not?

Then I get the business, still, because he doesn't pay. That's what we need to talk about. We know who the enemy is.

Every woman in this room who is black, who is poor, who has been through the welfare system or who might have to go to the welfare system, because I'm just one paycheck from that.

You're not going to tell me that you're giving me a right and somebody else is taking it away on the other hand.

Now, what are you talking about? I urge this to be stricken from this constitution.

Because we have not addressed that question, as to what the man's right is; and if it's his right and it's my right to back off, then you've got to tell me what happens to me when I choose.

Now, what right -- what are you taking away from me? By putting this in this constitution. Nobody in this room can say to me that it's giving me a right. Nobody. Do you all understand what I'm saying? Nobody in this room can tell me that you've given me a right.

ACTING CHAIRM BALDWIN: Time.

Delegate Jordan, for or against?

DELEGATE JORDAN: I was for, Mr. Chairman.

I think my statement has been very eloquently stated by both Delegates Cooper and my fellow Delegate from Ward 3 -- I mean Ward 8.

[Much commotion in the room.]

ACTING CHAIRMAN BALDWIN: [rapping gavel] Quiet.

All right, celegate Thomas, Harry Thomas.

DELEGATE THOMAS: I move the previous question.

VOICES: Second.

ACTING CHAIRMAN BALDWIN: The previous question has been called for, to terminate debate. Those in favor of terminating debate, signify by a show of hands.

[Showing of hands.]

ACTING CHAIRMAN BALDWIN: Those in opposition likewise.

[No response.]

ACTING CHAIRMAN BALDWIN: Abstentions?

Debate has been terminated.

We now vote on the Street-Moor amendment, to delete Section 18(a).

Delegate Nahikian?

DELEGATE NAHIKIAN: I'd like to request a roll call vote.

VOICES: No, no.

VOICES: Second. Second.

ACTING CHAIRMAN BALDWIN: That request needs four seconds. If I see four hands, we will move right into a roll call vote.

[Showing of hands.]

ACTING CHAIRMAN BALDWIN: We have it. We have it.

Mr. Secretary.

[Rapping gavel] Quiet. Delegate Graham, Delegate Jones.

Mr. Secretary.

SECRETARY COOPER: Yes, sir.

ACTING CHAIRMAN BALDWIN: We are voting on the Street amendment. That is to delete Section 18(a).

[Secretary Cooper called the roll, with the following responses by those present:]

Delegate Kameny, no; Delegate Lockridge; Delegate Long; Delegate Love, no; Delegate Maguire, pass; Delegate Marcus, no; Delegate Charles Mason, no; Delegate Hilda Mason, no; Delegate Bryan Moore, no; Delegate Jerry Moore; Delegate

Talmadge Moore, yes; Delegate Nahikian, no; Delegate Nixon, no; Delegate Oulahan; Delegate Paramore, no; Delegate Robinson, no; Delegate Rothschild, no; Delegate Schrag; Delegate Shelton, no; Delegate Simmons, no; Delegate Street, yes; Delegate Terrell; Delegate Thomas, no; Delegate Warren, no; Delegate Baldwin, no; Delegate Barnes; Delegate Blount; Delegate Bruning, no; Delegate Clarke, no; Delegate Coates, no; Delegate Cooper, yes; Delegate Corn; Delegate Croft, no; Delegate Eichhorn, no; Delegate Feely, no; Delegate Freeman, no; Delegate Garner; Delegate Graham, no; Delegate Harris, no; Delegate Holmes, no; Delegate Jackson, no; Delegate Johnson; Delegate Jones, yes; Delegate Jordan, yes; Delegate Maguire, no; Delegate Cassell, no.

SECRETARY COOPER: Mr. Chair.

ACTING CHAIRMAN BALDWIN: Yes, Mr. Secretary.

SECRETARY COOPER: The Street amendment to delete Section 18(a): five in favor, 28 not in favor.

ACTING CHAIRMAN BALDWIN: The Street amendment was defeated.

Back to the original motion.

Delegate Nahikian, Clarke, and Graham.

DELEGATE NAHIKIAN: Mr. President, I move the previous question on subsection (a).

[Several Delegates seconded.]

ACTING CHAIRMAN BALDWIN: We can't terminate debate as long as someone has asked to speak to it.

DELEGATE CLARKE: Mr. Chairman, as written, the section would legalize prostitution.

I therefore move to insert the word "noncommercial" before the word "private".

[Several Delegates seconded.]

ACTING CHAIRMAN BALDWIN: It's been moved and properly seconded that we insert the word "noncommercial" prior to "private".

DELEGATE KAMENY: As Delegate Clarke may notice, that question was in fact was addressed in essentially this fashion, that is, in the same sense that he speaks, in the committee's report. And it was indicated it was not the intention of the committee so to do.

The committee will accept the amendment.

ACTING CHAIRMAN BALDWIN: Delegate Shelton.

DELEGATE SHELTON: I rise to amend the first sentence. I still believe that it is unclear and is subject --

ACTING CHAIRMAN BALDWIN: Delegate Shelton, that particular amendment would be out of order, unless you want to amend what he stated.

DELEGATE SHELTON: Oh, I'm sorry. Okay.

ACTING CHAIRMAN BALDWIN: And his language is on line 3.

DELEGATE SHELTON: Yes, I have language on 2.

ACTING CHAIRMAN BADLWIN: Yes, we'll get to that one.

Any further discussion on the Clarke amendment?

Is there further discussion on the Clarke amendment?

Shall we, by consent, terminate debate?

[Chorus of "yes".]

ACTING CHAIRMAN BALDWIN: All in favor of the Clarke amendment signify by saying "yes".

[Chorus of "yes".]

ACTING CHAIRMAN BALDWIN: Those in opposition, likewise "no".

[Several "noes".]

ACTING CHAIRMAN BALDWIN: Abstentions?

The Clarke amendment is adopted.

Delegate Shelton, your amendment is in order now.

DELEGATE SHELTON: I wish to amend the first part of the sentence to read: "The freedom of reproductive choice." Second sentence would begin with "The right of persons to privacy."

ACTING CHAIRMAN BALDWIN: I'm sorry, Delegate Shelton, I missed that. Are you inserting a new sentence on line 2?

DELEGATE SHELTON: Beginning with line 1, the right of the individual.

ACTING CHAIRMAN BALDWIN: And you delete what now? If anything?

DELEGATE SHELTON: Delete from "The right of the individual" down to "to bear a child is inviolable."

ACTING CHAIRMAN BALDWIN: So you're going to delete the first sentence, the first phrase, okay.

DELEGATE SHELTON: Right. And then begin the second sentence with "The right of" -- and with the Delegate's amendment, does that go right here -- "The right of persons to private" and then keep the sentence going all the way through.

DELEGATE STREET: Will you read that, please?

ACTING CHAIRMAN BALDWIN: Yes, read it as you --

DELEGATE KAMENY: Point of order.

ACTING CHAIRMAN BALDWIN: Yes.

DELEGATE KAMENY: This constitutes a motion to divide, and actually is a reconsideration.

A DELEGATE: Can we have section (a) read?

ACTING CHAIRMAN BALDWIN: This is not a motion to divide at this point, telegate Kameny. She's just amending your first line 2.

Delegate Shelton, the Secretary would like for you to read it, so he can be sure he has it.

DELEGATE SHELTON: Delegate Coates will read it.

DELEGATE COATES: The motion of Delegate Shelton, as I understand it, would be to change the section title to "Freedom of Choice"?

DELEGATE SHELTON: Yes. Not the title, leave it.

DELEGATE COATES: Leave the title as it is.

But to strike in line 2, all of line 2 and that part of line 3 ending with "is".

DELEGATE NAHIKIAN: Would you just read it, Delegate Coates?

DELEGATE COATES: Yes. As amended, it would read: "The right of persons to private consensual sexual behavior is inviolable. Those who exercise that __________- the right to have in addition the right to be free from all forms of discrimination."

A DELEGATE: One more time, I still can't get it.

A DELEGATE: I'm sorry, that was not clear.

DELEGATE COATES: "The right of persons to private consensual sexual behavior is inviolable. Those who exercise or advocate these rights have, in addition, the right to be free from all forms of discrimination."

DELEGATE KAMENY: I didn't hear any reference to "noncommercial".

DELEGATE SHELTON: I meant to leave that out.

A DELEGATE: Well, what are you deleting?

ACTING CHAIRMAN BALDWIN: Delegate Coates, let's just read the first part first, and we'll debate that and then we'll add the second part.

It's rather confusing to most of the Delegates.

DELEGATE COATES: She pointed out in that sentence that I omitted it.

I'll read it again, sir.

ACTING CHAIRMAN BALDWIN: Okay.

DELEGATE COATES: As amended, the section would read: "The individual has the right of freedom of reproductive choice." Continuing: "The right of persons to private consensual sexual behavior is inviolable." One correction there, the insertion of Delegate Clarke's amendment, "noncommercial private".

DELEGATE KAMENY: The right to indulge in this.

DELEGATE COATES: That's right. And then continue with the last sentence: "Those who exercise to advocate these rights have, in addition, the right to be free from all forms of discrimination."

ACTING CHAIRMAN BALDWIN: Now, is that clear? Or is there still question regarding the amendment?

A DELEGATE: Read it once more.

ACTING CHAIRMAN BALDWIN: Once more?

Will you read it, Delegate Harris?

DELEGATE HARRIS: It reads: "The individual has the right to freedom of reproductive choice. The right of persons to noncommercial private consensual sexual behavior of adults is inviolable."

A DELEGATE: That should be "The right of adults".

DELEGATE HARRIS: Oh, sexual behavior is inviolable.

DELEGATE CLARKE: Point of order.

ACTING CHAIRMAN BALDWIN: State your point of order, Delegate Clarke.

DELEGATE CLARKE: Isn't the rephrasing saying the same thing?

ACTING CHAIRMAN BALDWIN: Yes, it is.

DELEGATE CLARKE: Well, can't we let Style and Drafting do that?

DELEGATE SHELTON: Providing that Style and Drafting will do that without being instructed.

DELEGATE GRAHAM: Mr. President, since I'm on that committee, may I ask a question? Are you saying that you want left out "procreate or to bear a child"?

DELEGATE SHELTON: That's not fair because --

DELEGATE GRAHAM: Is that what you want left out? People know that these are the words you want in.

ACTING CHAIRMAN BALDWIN: We have Delegate Shelton's amendment. It was seconded, and it is in order, and she has to be satisfied also that, you know, she wants some action on it. And she says she isn't clear at this time, she isn't satisfied that Style and Drafting will in fact give honor to her amendment.

DELEGATE CLARKE: But Delegate Coates was saying the same thing.

DELEGATE COATES: I was just reading her amendment.

ACTING CHAIRMAN BALDWIN: Yes, he was just reading it for her.

DELEGATE COATES: May I read it again, sir?

ACTING CHAIRMAN BALDWIN: Yes.

DELEGATE COATES: Delegate Shelton's amendment is as follows, and if adopted would read: "Section 18. Privacy."

Section 18, entitled "privacy" would read as follows:

"The right of the individual" --

VOICES: No, "The individual has the right".

DELEGATE COATES: "The individual has the right to freedom of reproductive choice." "The individual has the right to freedom of reproductive choice."

Next sentence: "The right of adults to non-commercial private consensual sexual behavior is inviolable."

The next sentence: "Those who exercise or advocate these rights has, in addition, the right to be free from all forms of discrimination."

ACTING CHAIRMAN BALDWIN: There were no changes in the last sentence, and we will debate them sentence by sentence.

The first sentence reads: "The individual has the right to freedom of reproductive choice." Is there any discussion on that first sentence?

Delegate Marcus.

DELEGATE MARCUS: I understand, the committee understands what Delegate Shelton is trying to do. I'd like to repeat the reasoning that the committee went through in terms of carefully drafting this sentence, which I hope will demonstrate to Delegate Shelton that, in fact, instead of making the language clearer and firmer and encompassing her language, it being to muddy the waters a bit.

It was the drafting intent of the committee that in fact all stages of sexual behavior between consenting adults, noncommercial, and all stages of the process of not only reproduction but the inviolability of their bodies in regard to any portion of their bodies engaged in reproduction, which may be involved in reproduction, should be protected.

Therefore, the word "procreation" was deliberately chosen, because procreation connotes several things: It connotes the ability of a man or a woman to be able to use their bodies for the purpose of conceiving. That specifically speaks to the question of birth control as well as the question of sterilization. It was very deliberately chosen in that fashion.

The phrase "bear a child" was very deliberately chosen.

ACTING CHAIRMAN BALDWIN: Time, Delegate Marcus.

DELEGATE MARCUS: It's committee explanation, Mr. President.

ACTING CHAIRMAN BALDWIN: Okay. Okay. Continue.

DELEGATE MARCUS: The sentence -- the phrase "bearing a child" refers to the ability of one to choose or not to choose to actually bear the child itself, it's abortion.that we're talking about there.

The first procreation is something that both men and women do; bearing achild, obviously, is something that only women do. Procreation has to do with contraception; bearing a child has to do with abortion. The committee very deliberately chose the two separate phrases, two separate words, because we felt it covered the entire ballpark.

We debated for quite a while the use of the words "reproductive choice". We felt that even though it sounded,at first blush, to be inclusive, it may not have been inclusive, it may not have referred, for example, to contraception,or it may have left the question of contraception muddied.

ACTING CHAIRMAN BALDWIN: Okay, Delegate Marcus. Delegate Harris.

8A DELEGATE HARRIS: Mr. Chair, I urge my fellow Delegates to support the Shelton amendment. I think we have overworked 18(a) in terms of discussion. I think the issues are very clear, and I think Delegate Shelton's amendment makes it very clear, and urge you to support it.

ACTING CHAIRMAN BALDWIN: Delegate Paramore?

DELEGATE PARAMORE: Call the previous question.

ACTING CHAIRMAN BALDWIN: The previous question has been called for.

DELEGATE NAHIKIAN: You can't call the previous question when there's someone that wants to speak.

ACTING CHAIRMAN BALDWIN: You may speak, Delegate Nahikian.

DELEGATE NAHIKIAN: Thank you.

I only want to speak very briefly, and I would like to urge that we not support Delegate Shelton's amendment. And it's for one simple reason, it's not because I disagree with her effort to clarify.

But because of the use of the word "procreate". If we change the language of subsection (a), my concern is whether or not I believe we would also change the language that allows an individual to choose about their bodies; and, consequently, might imply that the issue of forced sterilization could not be absolutely prohibited, as I believe the committee language in section 18(a) does.

That's an issue that I think people have very strong feelings about, particularly given history; and for that reason I would urge us to stick with the language as the committee has written it, because I think it's broader and more encompassing than the effort by Delegate Shelton to clarify.

Thank you.

ACTING CHAIRMAN BALDWIN: Delegate Freeman.

DELEGATE FREEMAN: The reason that I asked to speak, I too oppose the Shelton amendment, and urge that we adopt the committee language, although I do appreciate Delegate Shelton's effort to clarify the language.

ACTING CHAIRMAN BALDWIN: Do we have a consensus to terminate debate?

[Chorus of "yes".]

ACTING CHAIRMAN BALDWIN: Those in favor of the Shelton amendment --

DELEGATE SHELTON: I asked to speak last --

ACTING CHAIRMAN BALDWIN: Once we have terminated debate, usually we -- but I will allow you just one second.

DELEGATE SHELTON: Okay. First of all, I would like to point out that the language you mentioned here, as far as the Women's Movement, that this language clearly brings to bear those languages in other kinds of legislation. It is clearly in terms of Women's Rights, and therefore I urge the adoption of this for the purposes of clarifying, for the pruposes of the average person understanding exactly our intent.

ACTING CHAIRMAN BALDWIN: Thank you, Delegate Shelton.

Those in favor of the Shelton amendment signify by a show of hands.

A DELEGATE: Can you read it again, Mr. Chairman?

ACTING CHAIRMAN BALDWIN: "The individual has the right to freedom of reproductive choice."

Those in favor of the Shelton -- no, we are going sentence by sentence.

Those in favor of the Shelton amendment, the first sentence, signify by a show of hands.

[Showing of hands.]

SECRETARY COOPER: Six.

ACTING CHAIRMAN BALDWIN: Those in opposition?

[Showing of hands.]

SECRETARY COOPER: Twenty.

ACTING CHAIRMAN BALDWIN: Abstentions?

SECRETARY COOPER: None.

ACTING CHAIRMAN BALDWIN: The Shelton amendment, the first sentence is defeated.

The second sentence?

A DELEGATE: We don't have that.

DELEGATE HARRIS: Yes, we do. The second sentence reads: "The right of adults to noncommercial private consensual sexual behavior is inviolable."

ACTING CHAIRMAN BALDWIN: Is there a second? Is there a second?

A DELEGATE: Second.

ACTING CHAIRMAN BALDWIN: It's been moved and properly seconded that the second sentence -- Discussion?

Is there discussion on the second sentence of the Shelton amendment?

Having heard none, we are ready to vote.

Those in favor of the second sentence, as read, signify by a show of hands.

[Showing of hands.]

SECRETARY COOPER: Six.

ACTING CHAIRMAN BALDWIN: Those in opposition?

[Showing of hands.]

SECRETARY COOPER: Seventeen.

ACTING CHAIRMAN BALDWIN: The Shelton amendment was defeated. There will be no point in debating the third sentence because it's as the Committee wrote it. So it will remain with the committee.

Delegate Cooper?

SECRETARY COOPER: Yes, I have a further amendment to Section 18.

My amendment would be to terminate the first sentence after the word "inviolable" and delete the following words "as is the right to noncommercial private consensual sexual behavior of adults".

A DELEGATE: Second.

ACTING CHAIRMAN BALDWIN: It's been moved and properly seconded, so we'll ask the Secretary to read his amendment.

SECRETARY COOPER: The amendment would be to place a period after the word "inviolable" and to delete "as is the right to noncommercial private consensual sexual behavior of adults".

ACTING CHAIRMAN BALDWIN: Discussion?

Delegate Cooper?

SECRETARY COOPER: Yes. Once again, I think that this language does need to be deleted. Many times in the past I think there have been instances where we've seen the private consensual sexual behavior of adults perpetrated on the unwilling in the form of being forced upon children and others.

I think that this would be a reckless language to have in our constitution. It would be very, very dangerous in many respects.

I have a lot of very, very personal problems with this kind of language. It's something that I just cannot agree with and have not agreed with, and I don't think I ever will agree with. And I think that it should be stricken from this constitution, in its entirety.

ACTING CHAIRMAN BALDWIN: Is there further --

DELEGATE CLARKE: You should take a job with the Washington Post.

[Laughter.]

ACTING CHAIRMAN BALDWIN: Is there further discussion?

Delegate Coates and Freeman and then we will let you respond.

SECRETARY COOPER: Thank you.

DELEGATE COATES: Thank you, Mr. President. I speak against this amendment.

One often views this matter from other perspectives, but when we regard the perspective of the interest of the State, I see no vital interest of the State jeopardized, by the articulation of this right in our constitution.

In fact, to the contrary, I see rights of individuals. Without this provision. I see discrimination, I see injustice, I see oppression, in some of its most vicious forms. Directed against productive and citizens, participating members of this community. Participating in projects and programs for the common good.

So that perhapsin another forum within the sanctuary of somewhere else, persons who are opposed to this right might articulate their parochial perspectives.

But in the wider forum of the public interest, the common good, I urge that we defeat this amendment.

ACTING CHAIRMAN BALDWIN: As you know, the only thing new is that "noncommercial" that Delegate Clarke inserted. You have spoken to this section once before on the Street amendment.

So unless someone has anything new, it's no point in any further debate on this part of it, because you've debated it earlier.

Is it something new?

DELEGATE NAHIKIAN: Mr. President, I was going to call the question.

A DELEGATE: Second.

A DELEGATE: Second.

ACTING CHAIRMAN BALDWIN: It's been moved and seconded that we terminate debate.

Those in favor signify by saying "yes".

[Chorus of "yes".]

ACTING CHAIRMAN BALDWIN: Those in opposition "nay".

[No response.]

ACTING CHAIRMAN BALDWIN: Abstentions?

Debate has been terminated.

We will now vote on the Cooper amendment.

Those in favor of the Cooper amendment signify by a show of hands.

[Showing of hands.]

SECRETARY COOPER: Four.

ACTING CHAIRMAN BALDWIN: Those in opposition to the Cooperat amendment, likewise.

[Showing of hands.]

SECRETARY COOPER: Twenty-one.

ACTING CHAIRMAN BALDWIN: Abstentions?

SECRETARY COOPER: One.

ACTING CHAIRMAN BALDWIN: The Cooper amendment was defeated.

Delegate Freeman?

DELEGATE FREEMAN: Mr. Chair, I move the previous question on subsection (a).

A DELEGATE: Second.

ACTING CHAIRMAN BALDWIN: It has been moved and properly seconded that we terminate debate and vote on the previous question of subsection (a).

Does anyone need any clarification as to what we're voting on?

Those in favor signify by a show of hands.

[Showing of hands.]

SECRETARY COOPER: Twenty-five.

ACTING CHAIRMAN BALDWIN: Those in opposition, likewise.

[Showing of hands.]

A DELEGATE: Is this on the previous question?

ACTING CHAIRMAN BALDWIN: No, we are voting on the motion. We terminated debate earlier.

Those in opposition, likewise.

[Showing of hands.]

SECRETARY COOPER: Four.

ACTING CHAIRMAN BALDWIN: Abstention?

SECRETARY COOPER: One.

ACTING CHAIRMAN BALDWIN: Section 18(a) has been adopted.

CHAIRPERSON FREEMAN: Delegate Mason?

DELEGATE C. MASON: I move subsection 18(b).

CHAIRPERSON FREEMAN: Is there a second?

A DELEGATE: Second.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we adopt Subsection (b). Is there discussion?

Delegate Simmons?

DELEGATE SIMMONS: Unless there is someone with a burning comment, I would like to move the previous question.

VOICES: Second.

CHAIRPERSON FREEMAN: All right. Are there any burning comments on subsection (b)?

It has been moved and seconded that we -- we have a burning question, Delegate Clarke.

DELEGATE CLARKE: How can you not collect information on the petition for redress of grievances? How could I as a legislatore, or a legislator of the State, not collect information on a petition for redress of grievances?

CHAIRPERSON FREEMAN: Delegate Marcus, for the committee?

DELEGATE MARCUS: We are clearly talking about political surveillance in this particular subsection. We are not talking about the political information gathering that goes on in the normal course of the legislative or democratic process.

DELEGATE CLARKE: You dont' say that. And I would also point out, while I'm very sensitive to this, having been the subject of it, that this city is a nation where you can still be -- at least surrounding the Nation's Capital, -- in the international affairs which go on here.

The way this section is worded, -- the way this section is worded, international intelligence gathering could be found to be unconstitutional under the State Constitution.

I can assure you that if we bring that onto the table, when this gets to Congress, there's no chance.

CHAIRPERSON FREEMAN: Delegate Marcus?

DELEGATE MARCUS: We will answer that comment at the end, since there are others who want to speak, and I'd like to finish this day as quickly as possible.

CHAIRPERSON FREEMAN: Delegate Jordan?

DELEGATE JORDAN: Yes, Madam Chair, I would like to rise to support the committee in its position, --

A DELEGATE: Hear, hear.

DELEGATE JORDAN: -- that the prophets of doom have already condemned us in this constitution, in numerous sections; so -- almost every one. So I'm not afraid to continue to tread the path that we've started.

My only question is, since we are trying to achieve Statehood, what would the people in New York do if the issue was before them? I think that's a fundamental question we have to ask. Because there is a significant presence in New York of foreigners or dignitaries or what-have-you at the U.N. there. And I'm sure that if the citizens of New York wanted to include in their constitution a prohibition similar to that which we have contained here, I'm sure that the Congress and no one else would try to intercede.

Now, I too was a target of the intelligence activities of the District of Columbia. I remember when the Council of the District of Columbia, who had oversight responsibilities over the Police Department, and the committee at that time was headed by Counsel member Willie Harding, sought to investigate our police department's intelligence division's activities and were rebuffed.

Now, I would just say that if the Council at that point could not exercise its responsibility of the activities of the police department to insure compliance with the laws, and make sure it had money to be spent appropriately, it could not compel the attendance before that august body of members of the Metropolitan Police Department then I think it's imperative that we include something in our constitution just as apparent that the laws that we presently have today do not protect us from that kind of abuse, or activities on the part of the police.

So, in spite of everything that's been said to the contrary, I would hope that all the Delegates would support this section (b).

Thank you very much.

CHAIRPERSON FREEMAN: Delegate Bruning.

DELEGATE BRUNING: Yes, just a couple of questions of the committee. Hopefully they will answer them on the record.

This would not, as I understand it, or it is your intent that it would not prevent the politician from keeping track of constituents' letters and complaints?

DELEGATE MARCUS: That is correct.

DELEGATE BRUNING: It would not prevent citizens groups that might deal with the Judiciary from keeping track of decisions of judges and cases?

DELEGATE MARCUS: That is also correct.

DELEGATE BRUNING: Thank you.

DELEGATE MARCUS: You're welcome.

CHAIRPERSON FREEMAN: Delegate Corn?

DELEGATE CORN: One question. Please excuse my ignorance, but what does the phrase "under color of law" mean?

That must have some specific legal -- please give me the definition.

CHAIRPERSON FREEMAN: Someone from the committee? Please answer that.

DELEGATE MARCUS: Yes. The deserves a precise answer. That means those persons acting as agents for the State.

CHAIRPERSON FREEMAN: Thank you.

Is there further discussion? Delegate Clarke?

DELEGATE CLARKE: I think three word changes could deal with the concern that I have. They are not written out. If I could take a minute to please write them out, as I started to do.

One is to insert the word "domestic" on line 7, so it reads "domestic political surveillance is contrary to democratic principles".

CHAIRPERSON FREEMAN: Why don't you read all three first, and we can get the answer all at once.

DELEGATE CLARKE: The second one is to change, on line 8, change the word "essential" to "relevant"; and then on line 11, after the word "collected" insert the word "surreptitiously". Line 11 after the word "collected", insert the word "surreptitiously".

CHAIRPERSON FREEMAN: We will take these one by one.

Delegate Clarke has moved that on line 7 he adds the word "domestic" before the word "political"; is there a second?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It has been moved and seconded that we do so.

Discussion?

DELEGATE MARCUS: Madam Chair, I would like to take an opportunity as part of the committee to answer Delegate Clarke's concerns at this point.

CHAIRPERSON FREEMAN: Speak only to the motion on the floor, Delegate Marcus.

DELEGATE MARCUS: Right.

In going to the question of "domestic", there are two answers.

First, our police are not engaged in international surveillance. Nor are they empoweredto engage in international surveillance. The State doesn't engage in international surveillance.

Second of all, the supremacy clause of the Constitution of the United States reserves the conduct of foreign policies, which means international intelligence gathering, to the federal government.

Therefore, international and internationally related intelligence gathering would not be impacted by this particular language.

Therefore, the word "domestic" is simply not needed in this particular clause.

CHAIRPERSON FREEMAN: Delegate Brian Moore.

DELEGATE B. MOORE: Well, on these questions regarding the general section, but I can wait until --

CHAIRPERSON FREEMAN: All right. We're discussing right now the Clarke amendment to add the word "domestic" before the word "political".

Is there further discussion on that?

Delegate Jackson?

DELEGATE JACKSON: Yes, Madam Chair, I rise to speak to this briefly, because it will make it, at least, quite dangerous. No. 1, it's not legal, because we know that it comes under the federal law.

No. 2, what he is saying is that if you don't want to say you are wiretapping someone for domestic purposes, just say they are for international purposes. And therefore you have a problem, which means that people will just lie and say something is domestic.

As we know, Madam Chair, this is how people have been locked up historically. We have no need to play with these words, Madam Chair.

CHAIRPERSON FREEMAN: Thank you.

Delegate Croft.

DELEGATE CROFT: As I understand -- let me ask a question, on the amendment.

Would your amendment allow the federal government to draw up a contract with the State to engage in political surveillance, rather than the State?

CHAIRPERSON FREEMAN: Delegate Clarke?

DELEGATE CLARKE: My amendment would not -- would cause the SLate constitution to not enter into an agreement between the federal govenment and the local government, as to the surveillance of people within the jurisdiction of the local government, if it were for purposes of international operations.

DELEGATE CROFT: May I ask another question?

CHAIRPERSON FREEMAN: Delegate Croft?

DELEGATE CROFT: Yes. That, if I understand you correctly, in 1968, the D. C. Police, along with the Security forces and the Military, engaged in surveillance of controversial citizens.

Would your amendment protect people from that kind of activity?

DELEGATE CLARKE: I believe the amendment has. As I recall the 1968 reference, as having been part of the subject of the surveillance, the amendment would not eliminate the protections of the Bill of Rights with regard to that activity.

In other words, that activity would still stand protected, because that 1968 activity was domestic activity.

DELEGATE CROFT: But if they said it was for international purposes? In other words, put it this way --

DELEGATE CLARKE: My concern is that we have a number in what is going to be a State. We are going to have a number of instances. We are going to have a number of chases. We are going to have a number of international operations. And where it is necessary or even thought to be necessary, for there to be commonality of work between the local law officials and the federal law officials, if the Congress is to see local law officials to be hampered by a State constitutional provision prohibiting their work in this, because it's not constrained to domestic surveillance, then the Congress is going to be very slow, indeed, to permit this State to exist.

CHAIRPERSON FREEMAN: Delegate Croft?

DELEGATE CROFT: I would like to rise in opposition to the amendment. There are a number of people in the city who have contact in various embassies, there are numbers of people in the city who have contact with foreign nationals who may be in opposition to their government; there are many of us who hold certain views about which foreign policy -- which are not popular views. And many of us who make links between what happens to people in this country and in other parts of the world, such foreign policy; and I see that this type of amendment will allow us to be surveyed to come under the surveillance of the States, merely for those reasons.

CHAIRPERSON FREEMAN: Thank you.

Is there affirmative discussion on the Clarke Amendment?

Can we vote on that? All right, we will have a vote on the Clarke amendment.

All those in favor of adding the word "domestic" before the word "political" on line 7, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Chorus of "nays".]

CHAIRPERSON FREEMAN: Call for a division. All those in favor please raise your hands.

[Showing of hands.]

SECRETARY COOPER: Ten -- eleven.

CHAIRPERSON FREEMAN: Eleven. All those opposed?

[Showing of hands.]

SECRETARY COOPER: Fourteen.

CHAIRPERSON FREEMAN: Abstentions?

SECRETARY COOPER: Three.

CHAIRPERSON FREEMAN: Three abstentions.

The amendment is defeated.

Delegate Corn?

DELEGATE CORN: Point of information. I should like to ask something of the committee.

CHAIRPERSON FREEMAN: At this point Delegate Clarke has two more amendments on the floor.

DELEGATE CORN: May I be recognized afterwards?

CHAIRPERSON FREEMAN: Yes.

I want to point out that it is 2:30 right now.

So let us try to speed up this debate, at least to finish Section 18, we might feel a little better, tonight.

Delegate Clarke?

DELEGATE CLARKE: On line 11, put the word "surreptitiously" after the word "collected". That means under cover.

CHAIRPERSON FREEMAN: Is there a second to that?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we add the word "surreptitiously" after the word "collected" on line 11. Discussion?

Delegate Marcus, for the committee?

DELEGATE MARCUS: Yes. The committee also opposes the addition of the word "surreptitiously". Surreptitiously, which implies under cover, excludes political surveillance which may be perfectly above cover, but still contradicts the whole purpose of excluding political surveillance because of your political views or religious views, your attempt to pursue your rights to association, to petition for redress of grievances.

Surreptitious could include simply cutting out -- non-surreptitious simply means, could mean cutting out newspaper articles and keeping a file on you.

CHAIRPERSON FREEMAN: Delegate Simmons?

DELEGATE SIMMONS: I was only going to point out the fact that we did agree we were going to try to use plain language, plain English, and I think even cryptic from your point, there is a simpler term than surreptitious. When we are talking about -- cryptic.

That is secretive, too.

But I think that the explanation from Delegate Marcus would suggest that to put that in would give us only one side of the intent of the committee.

CHAIRPERSON FREEMAN: Is there further discussion on this?

Delegate Clarke, would you like to speak to that?

DELEGATE CLARKE: Without that word or to use another word, use "under cover" whatever, a State Legislator can keep a file on somebody who comes in petition for recress of grievances. A file cannot be kept on an application for a permit, assembly permit. A recording cannot be kept from a religious service.

It just simply says information cannot be collected. It's not the collection of information you're after, it's the undercover, surreptitious -- forgive my use of the word, but the word is surreptitious -- collection of the information.

CHAIRPERSON FREEMAN: Is there further discussion on this amendment? Can we bring it to a vote?

All those in favor of adding the word "surreptitiously" after the word "collected" in line 11, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Several "noes".]

CHAIRPERSON FREEMAN: Abstentions?

The amendment carries.

Is there further amendments --

[Division was called for.]

CHAIRPERSON FREEMAN: Division. All those in favor of adding the word "surreptitiously", please raise your hands.

[Showing of hands.]

SECRETARY COOPER: Fifteen.

CHAIRPERSON FREEMAN: All those opposed?

[Showing of hands.]

SECRETARY COOPER: Eleven.

CHAIRPERSON FREEMAN: Abstentions please?

SECRETARY COOPER: One.

CHAIRPERSON FREEMAN: The word is added.

Is there further debate or discussion on subsection (b)?

Delegate Brian Moore?

DELEGATE B. MOORE: Yes, Madam Chair. I can appreciate the phrase about the exercise of freedom of religion, and also the right to petition for redress of grievances; but I cannot appreciate the relationship of these freedoms with political surveillance.

I was wondering if you could clarify that for me?

DELEGATE MARCUS: What were the two?

DELEGATE B. MOORE: Exercise of freedom of relation and right to petition for redress of grievances; how does that relate to political surveillance?

DELEGATE MARCUS: Because the government has --

DELEGATE B. MOORE: Pardon me?

DELEGATE MARCUS: The answer is that the government can fine you for everything. Try it and you'll find out.

CHAIRPERSON FREEMAN: Thank you very much.

Delegate Corn?

Have you gotten an answer to your question?

Only one person from the committee will answer, please.

Could we have order, please? We are still in session.

Delegate Corn?

DELEGATE CORN: Is Delegate Moore finished?

CHAIRPERSON FREEMAN: Yes, he is.

DELEGATE CORN: I would like to ask as to (b), I'm not quite sure what this section means, but I'd like to ask a very pointed question and just answer me, "Yes, that's what it means or what it would do".

If, for instance, --

CHAIRPERSON FREEMAN: Excuse me, Delegate Corn. I realize that we are all very tired, but you are extremely distracting at this point. Delegate Nahikian, Jordan, Shelton, please.

We still have a quorum.

DELEGATE CORN: If, for instance, a group is formed on a college campus to start a branch of the KKK or a branch of the Nazi Party or a branch of the Communist Party, if this section were passed, does that mean that there would not be --

DELEGATE JACKSON: No question. No question. No.

DELEGATE CORN: May I finish, please? I would like to finish.

CHAIRPERSON FREEMAN: Delegate Corn, please finish. Delegate Jackson, you are out of order.

DELEGATE JACKSON: She's out of order.

CHAIRPERSON FREEMAN: The committee will do its best to answer this question.

DELEGATE CORN: I would like to know if this section passes and were in fact enacted into a constitution, would that mean that the State or the federal government would have no right to try to infiltrate from within? Just a yes or a no.

CHAIRPERSON FREEMAN: Delegate Marcus?

DELEGATE MARCUS: Yes. The answer to that is quite simply that while political surveillance is forbidden, there is a qualification on the second line that in fact they could not -- they could in fact conduct surveillance if it was to investigate for purpose of proesecution of past, present or imminent crime.

CHAIRPERSON FREEMAN: Thank you. Is there further discussion?

DELEGATE CORN: So the answer is that they could infiltrate if they felt that that group was in fact about to commit a crime?

DELEGATE MARCUS: Yes.

DELEGATE CORN: Fine.

Thank you.

CHAIRPERSON FREEMAN: Is there further discussion on subsection (b).

Delegate Nahikian?

DELEGATE NAHIKIAN: I move the question.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on subsection (b). All those in favor of closing debate, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Debate is closed on subsection (b).

All those in favor of adopting subsection (b) as amended please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Abstentions?

The section is adopted.

Delegate Mason?

DELEGATE C. MASON: I move the adoption of subsection (c) and ask Delegate Marcus to read the missing language that was inadvertently omitted from the copy.

CHAIRPERSON FREEMAN: Right. Delegate Marcus?

DELEGATE MARCUS: I'd like to apologize to the body for the inadvertent omittance. That sentence begins on line 17, after the word "law" period. And I will read very slowly:

"However, the name, salary, and place of employment of each employee of the State, or of any of its agencies" -- "each employee of the State, or of any of its agencies or local governments, is a matter of public record and shall be available to the public."

DELEGATE CORN: Second.

CHAIRPERSON FREEMAN: This needn't be seconded, this is a -- no, this needn't be seconded, this is not a motion, this is an inadvertent omission from the committee report. This is part of the section that we're debating.

Is there debate on subsection (c)?

Delegate Corn?

DELEGATE CORN: I want to ask a question. I had a job with a presidential campaign, where it was said to me, I had to sign away a waiver of all of my rights, similar to what you've got in here, or I could not even be considered for thejob.

You know, how do you --

CHAIRPERSON FREEMAN: Would the committee please respond to that question?

DELEGATE MARCUS: When you're talking about a presidential campaign, you have a private employment situation. You are not a public employee.

So the last sentence doesn't refer to that particular piece, in effect.

DELEGATE CORN: What I am talking about is already down here in print.

DELEGATE MARCUS: As I understand it, you cannot, by this language, be compelled to waive your rights.

DELEGATE CORN: Well, in essence, if an employer says to you: You either waive your rights or I won't even consider you for the job. Then what?

DELEGATE MARCUS: Then you have a right to private action, unless it's with the federal government. You have a legal right to sue.

CHAIRPERSON FREEMAN: Is there further discussion on subsection (c)? Delegate Clarke?

DELEGATE CLARKE: I don't understand line 15. The disclosure of which would constitute an invasion of privacy. And I am not sure -- it just seems circuitous.

It seems to say any revelations that would constitute an invasion of privacy are protected. It doesn't say what is an invasion of privacy.

That's my concern. That's one concern.

Then I have a concern with respect to the last sentence.

CHAIRPERSON FREEMAN: Would the committee respond to the definition of what is an invasion of privacy?

DELEGATE MARCUS: Unfortunately, we cannot, in fact, see all the possible circumstances. So that that particular line is qualified by the phrase "the protection of which shall be provided by law". In fact, that allows for the definition of what it is that is in fact an invasion of privacy.

CHAIRPERSON FREEMAN: Thank you.

What was your other concern, Delegate Clarke?

DELEGATE CLARKE: I would move to strike the sentence that he added. Again --

CHAIRPERSON FREEMAN: Which sentence?

DELEGATE CLARKE: The one that he added, that he read to us.

"However, the name, salary, place of employment of any of the agencies in the government shall be a matter of public record."

CHAIRPERSON FREEMAN: Is there a second to that?

DELEGATE CLARKE: Well, let me --

CHAIRPERSON FREEMAN: Is there a second to that?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that the last sentence, which the committee read to us, be struck. Delegate Clarke?

DELEGATE CLARKE: The reason for it is what I raised yesterday. There are occasions when, in the work of this State, you've got to be able to pay somebody and they not be known that they've been paid.

Now, that occurs all the time in law enforcement. But it can occur in other occasions. Now I don't know whether employees move that kind of provision or not, but maybe it could be cured by not saying "it shall not be a matter of public record" but that "it shall not be protected by the privacy provisions."

But if you require in the constitution that this is a matter of public record, then again the State is going to be tremendously hampered in some very delicate work that any State is going to have to do.

CHAIRPERSON FREEMAN: Delegate Jordan?

DELEGATE JORDAN: Yes, Madam Chair. Let me count the precedents. If my memory serves me correct, the present District of Columbia's Freedom of Information Act contains language that is almost verbatim to this. I can't understand the objections of our distinguished Delegate, who is also a member of the Council, and I am almost certain voted for the Freedom of Information Act.

I can't understand his objections to this section, when it is presently law in the District of Columbia.

Now, this class of individuals that we are attempting to protect by saying they might be employees, I have some problem with that, along with others. I hope that we will have a State one day that won't rely on informants and squealers, whatever you want to call them.

I think that the State has responsibility to maintain an institution that will protect the State, and I also think that the State should be in the business of hiring some characters that's hired to pass on some of its activities.

So, I would like to support the committee in this inclusion. Like I say, it is already in the law, and we have in other sections of this Section on Rights and other articles of this section on Rights, taken language from

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various laws and included it in sections. So I don't understand what the objection is.

CHAIRPERSON FREEMAN: Delegate Charles Mason will speak for the committee.

DELEGATE C. MASON: I would confirm and point out that not only does the Freedom of Information Act apply to this type of information, but there's a provision in the current appropriations Act of the District of Columbia saying that no employee shall be employed whose name and salary are not a matter of public record.

They didn't state place of employment, but I don't think that adds very much.

I will asl point out that for about a hundred years, from around early 1800s up to about 1912, there was published a book, published every year part of the time, every two years part of the time, called the Official Register of the United SLates, which listed every employee of the United S'tates Government and of the District of Columbia Government, from the janitor of the post office in Holton, Maine, to the President, with name and salary and place of employment.

In 1911 or 1912, the publication of the book was -- in that form, was discontinued, but the legislative history of the Act of Congress discontinuing it makes clear that the information is still in the public domain. It was only the cost of publishing the very bulky book, it's like several copies of Webster's Unabridged Dictionary, which resulted in the publication being discontinued.

I have looked at that, and have been very much interested in reading the names and salaries of the teachers and, incidentally, the janitors in the District of Columbia school system, and many of the people and principals, many of them are people for whom schools are now named, well-known people.

All I can point out is that that kind of informatio is public information, has been for 150 years, and I presume it will remain so.

CHAIRPERSON FREEMAN: Thank you, Delegate Mason.

Delegate Corn.

DELEGATE C. MASON: I would also say that I think paid informants are probably not categorized as employees.

CHAIRPERSON FREEMAN: Delegate Corn.

DELEGATE CORN: I would think that if you pass, with all due respect -- and I admire Delegate Clarke tremendously, and I respect him very greatly -- but even if you pass his amendment, you're throwing out the baby with the bath water.

I would therefore move a substitute that would start the sentence that Delegate Marcus read as follows:

"Except in the cases of undercover personnel and certain agents" comma, and then it would read the rest as Delegate Marcus had it. So that the whole thing would read:

May I please?

CHAIRPERSON FREEMAN: Could we have it quiet on the floor?

DELEGATE CORN: "Except in the cases of undercover personnel and law enforcement agents" comma, and then it would read the rest as Delegate Marcus had it.

CHAIRPERSON FREEMAN: Is there a second to that? Is there a second to that?

The amendment dies for lack of a second.

DELEGATE KAMENY: Move the previous question.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved --

DELEGATE CLARKE: One moment. Point of personal privilege.

CHAIRPERSON FREEMAN: Yes, Delegate Clarke.

DELEGATE CLARKE: The Freedom of Information Act, which I did help to write, as the Chairman of the reporting committee, includes within it a law enforcement exception.

Secondly, those laws provide definitions of employees. This constitution does not.

This type of provision incurs much the subject of legislation, and it's part of my argument that that is where it belongs.

DELEGATE CORN: I'd like to move that amendment.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded we close debate on the amendment. All those in favor of closing debate, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: Delegate Cooper?

SECRETARY COOPER: It was stated earlier, and was adhered to by the Chair, that if someone wants to close debate, they wouldn't do it if someone else had a question or wanted to speak to the amendment on the floor.

CHAIRPERSON FREEMAN: That's quite all right, you were actually on the list, Delegate Cooper.

SECRETARY COOPER: Oh?

CHAIRPERSON FREEMAN: Yes, you were.

SECRETARY COOPER: My only question for the committee is if Mr. Jordan's affirmation that this section and a lot of other sections of the Bill of Rights -- and it was confirmed by Mr. Mason -- are in fadt existing law, I just want to know what was the justification of the committee for this legislation finding its way into this regularized set of rules we call a constitution?

CHAIRPERSON FREEMAN: Delegate Cooper, right now we are voting on the Clarke amendment. I think your question addressed the entire -- the rationale of the entire section.

SECRETARY COOPER: No, but those comments were brought up with regard to his amendment. It was stated that this was taken from the Freedom of Information Act. And I wanted to know how that Act, which was legislation, found its way into our constitution, which is framework?

CHAIRPERSON FREEMAN: Thank you. I'll take the answer from the committee, please?

DELEGATE MARCUS: Mr. Cooper, the Freedom of Information Act is under attack throughout the country, as is Sunshine Acts. We have on other occasions in this document included in the regularized set of rules those things that we felt were important to the effective administration of this particular State.

CHAIRPERSON FREEMAN: Thank you.

It has been moved and seconded, a little bit out of order, which is why I called on Delegate Cooper, he was next -- to close debate.

All those in favor of closing debate, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

A DELEGATE: Nay.

CHAIRPERSON FREEMAN: The Clarke amendment is on the floor, which would delete the language the committee read to us earlier. All those in favor please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Chorus of "Nays".]

CHAIRPERSON FREEMAN: Abstentions?

The amendment is defeated.

Is there further discussion on subsection (c)?

Delegate Shelton?

DELEGATE SHELTON: I was going to move the previous question.

[Voices saying "no", "out of order" and "sit down".]

CHAIRPERSON FREEMAN: Delegate Corn?

DELEGATE CORN: I would like to move an amendment before the sentence that Delegate Marcus aded, and that would be --

DELEGATE CROFT: Point of order.

CHAIRPERSON FREEMAN: Let's have order on the floor.

YOu are out of order.

DELEGATE CORN: What amendment did we just turn down? That doesn't mean I cannot have another amendment which is --

DELEGATE CROFT: Point of order.

DELEGATE CORN: And you haven't heard it yet, so how can you --

A DELEGATE: Move the previous question.

DELEGATE CROFT: Delegate, I have the floor, I have a point of order.

DELEGATE CORN: I have been recognized.

DELEGATE CROFT: I have a point --

CHAIRPERSON FREEMAN: Delegate Croft, what is your point?

DELEGATE CROFT: The previous question was called, and properly seconded. Delegate Corn is out of order.

CHAIRPERSON FREEMAN: Thank you. I note your point of order. I had called on Delegate Shelton. It has been moved and seconded to close debate.

All those in favor of closing debate, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Several "noes".]

CHAIRPERSON FREEMAN: Abstentions?

Debate is closed. All those in favor of adopting subsection (c), please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: Those opposed?

[Several "noes".]

CHAIRPERSON FREEMAN: Abstentions?

DELEGATE CORN: Abstain.

CHAIRPERSON FREEMAN: The section is adopted.

DELEGATE GRAHAM: Madam Chair.

CHAIRPERSON FREEMAN: Delegate Graham, you have an amendment?

DELEGATE GRAHAM: Yes. I passed to all the Delegates an amendment that said "Interception". I move the adoption, since you have in your hands, if you read it, I don't think I need to read it, because it deals with eavesdropping and that --

CHAIRPERSON FREEMAN: Yes. Is there a second?

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we add Chestie Graham's amendment, a new section (d) to Section 18.

Delegate Graham, would you like to discuss it?

DELEGATE GRAHAM: Yes. It deals with wiretapping and eavesdropping on people for no particular reason, and that's unlawful. I want it to be in the constitution that it's unlawful to do so. Because many families have been quite disturbed, and separations have been brought about in some families, because of some eavesdropping and wiretapping.

Some other people have been accused falsely, and the information has been obtained i a very unacceptable way, an unlawful way, because of this.

So it means, then, that I move the adoption and I hope all of you will support me in this.

CHAIRPERSON FREEMAN: Does the committee care to respond? Bear in mind, this is your opportunity to speak.

DELEGATE MARCUS: Delegate Graham, we are absolutely in sympathy with you.

However, instead of adding the language that you suggested, I would suggest that we have already covered it. We've covered it in two ways. We covered it in two phrases in section 5 which deals with searches and seizures.

The first sentence says privacy is a fundamental right, which permits one to challenge wiretapping.

The second place is in the third sentence of that particular section, which says "this right extends to all places and under all circumstances, in which the individual has a reasonable expectation of privacy."

DELEGATE GRAHAM: Madam President, the reason I bring it forth is I think he got it from the model constitution, because that's where I saw it. That's why I -- that's where I saw that part of it had been left off. And this was the part that had been left out. And that's why I want to include it.

CHAIRPERSON FREEMAN: Thank you, Delegate Graham.

Delegate Love?

DELEGATE LOVE: I would like to move the previous question.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on the Graham addition, new subsection (d).

All those in favor of terminating debate, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: All right, we've closed debate. All those in favor of adding the Graham amendment, which would be a new subsection (d), please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[Several "noes".]

CHAIRPERSON FREEMAN: Abstentions?

The section is added.

Delegate Mason?

DELEGATE C. MASON: I move the adoption of the whole section 18, in toto.

A DELEGATE: Second.

CHAIRPERSON FREEMAN: It's been moved and seconded that we adopt Section 18 as amended. Is there discussion?

DELEGATE MARCUS: Call for the previous question.

CHAIRPERSON FREEMAN: I'd like to call on the person. Delegate Marcus. Delegate Marcus?

DELEGATE MARCUS: Call for the previous question.

CHAIRPERSON FREEMAN: Okay. Thank you.

Is there a second to that?

A DELEGATE: I seconded it.

CHAIRPERSON FREEMAN: It's been moved and seconded that we close debate on the adoption of Section 18 as amended. All those in favor of closing debate, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: All those in favor of adopting Section 18 as amended, please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: All those opposed?

[No response.]

CHAIRPERSON FREEMAN: Abstentions?

Section 18 is adopted.

I would like at this point to make an announcement to the Delegates. It is five minutes of three. According to Delegate Simmons earlier, we will be locked out of the building, in the building, unless we leave right now.

I would like to make an announcement, however, about tomorrow. We will be meeting at twelve noon tomorrow instead of at ten, due to the late hour of tonight.

But I want to warn Delegates that we will probably also have to work very late tomorrow night. We have still a number of amendments, and in particular we have a number of new proposed sections to the Bill of Rights, and we have the second reading on a number of articles that we must complete tomorrow.

So I urge you -- Delegates, this meeting has not yet been adjourned -- I urge you to come prepared for a long haul tomorrow.

Delegate Harris has agreed to chair, starting at twelve noon.

Delegate Brian Moore?

DELEGATE B. MOORE: Does that mean we are going to continue to accept the items that have not been completed as yet?

CHAIRPERSON FREEMAN: Yes.

May I hear a motion to adjourn?

DELEGATE GRAHAM: So move.

[Several Delegates seconded.]

CHAIRPERSON FREEMAN: Okay. It's been moved and seconded that we adjourn for the evening.

All those in favor please say "aye".

[Chorus of "ayes".]

CHAIRPERSON FREEMAN: Those opposed?

A DELEGATE: Nay!

CHAIRPERSON FREEMAN: We are adjourned.

[Thereupon, at 2:55 o'clock, a.m., Wednesday, May 26, 1982, the meeting of Tuesday, May 25, 1982, was adjourned, to reconvene at 12:00 noon, Wednesday, May 26, 1982.]

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